Club Studies. B. R. College, Agra.

Our Economic Condition

Data compiled by

THE ECONOMICS RESEARCH COMMITTEE

Edited by

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Preface.

The statistical data analysed in this brochure was collected by the members of the Economics Research Committee to make an unbiased study of the present economic situation in the country. To have an adequate understanding of the complex problems, with which we are faced today, and to set forth a strictly scientific view unbiased in any way by the apparently distorted elements in the situation, a historical approach of the subject was but necessary. At the present momentous time in the history of the country, the scientists have a special responsibility to seek and unfold the truth, and the members of the Committee feel that the present study is an effort in that spirit. It is an attempt to present to the intelligent man the economic realism in a clear perspective, so that he may arrive at his own conclusions, and thus be able to take right decisions concerning his individual, communal or collective future actions and policies. The members are well aware of the limitations of an empirical approach, particularly in this country where published statistics are defective in more ways than one, and where the all-India figures after 1937 (due to separation of Burma) are not strictly comparable with the previous figures. The figures, however, contain and measure truth in a way, in which unaided letters can never do.

The members of the Committee were assembling for discussions of the various problems from day to day and the editor was charged with the duty of expressing the views and conclusions arrived at those sittings and append the same in the form of brief chapters to the statistical data collected for the monograph. It was suggested at one stage that chart and diagrams might serve the same purpose in a better way but the proposal was given up on account of certain technical and financial difficulties. I have tried to interpret the statistical data in simple language without being biased or prejudiced in any way, and to present nothing but the strictly scientific view, so that the reader may be able to take an independent judgment, just as he would have done by looking at those proposed lines and curves. Obviously, the views expressed herein, do not commit any other member of the Committee but myself, except those of Professor K.L. Garg for the last chapter, as the same has been written by him.

students of degree and post-graduate classes. Its primary object is, however, to enlighten the intelligent man about our economic condition today, so that he may make his full contribution to the economic development of the country.

I wish to express my indebtedness and deep gratitude to all my collaborators for the pains that they have taken to unearth the truth, and in particular to Principal Ram Karan Singh who has been the motor force in the present work. My thanks are also due to my wife, who has gone through the early stages of the manuscript and the proofs, besides helping me constantly in sifting the dry statistical data, a really unwholesome work for the fair sex. I also acknowledge my indebtedness to the printers and the publishers for the promptitude that they have shown in their work, particularly in these extra-ordinary times.

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BALJIT SINGH,
Editor.

CONTENTS

Pages.

CHAPTER I.

The Mineral Resources.

THIS review is based on the data recently collected by a Committee of the Mining, Geological and Metallurgical Institute of India. The relevant data classified at the end of the present chapter points unmistakably to our limitations and though it shall be wrong to assume that the country is very poor in minerals, it is certain that the separation of Burma has left us poorer. Nonetheless, one cannot possibly strike a note of optimism after looking at the long list of 24 items which are practically off the list of the country's minerals. These include among others—asbestos, China clays, copper, iodine, lead, pigments, silver, sulphur, tin and zinc and even nickel and mercury. Obviously, these limit our industrial expansion in many a direction though it is absurd to assume that it is highly unlikely that India will ever become an industrial power, and consequently an industrial nation such as the U.S.A. or Great Britain. We have faith in the future of our industries not only because the local supplies of some of these deficit minerals can to some extent be augmented by increased production *e.g.* in the case of copper, fluorite, lead, sulphur and zinc; but more so, because we hold certain important minerals such as manganese and mica, which can procure us easily the needed supplies through international agreements. The clause of the Atlantic Charter, which guarantees on equal terms the ready availability of the raw materials of the world to all countries, is therefore, of special significance to us for our economic prosperity. Moreover, we have failed so far to utilize substitutes, which may be locally available, or develop alternative sources through scientific research. A good example of the latter case is that of gypsum for the production of sulphur. Likewise, we may substitute aluminium in the place of copper. Finally, in no case in pre-war times the importers had ever felt any difficulty in getting such quantities of these minerals in which the country is deficient as we required. The post-war period we assume is not going to be worse for us, at least in this respect. So long as, therefore, we can lay our hands on the supplies of the minerals of the world we should import them freely and treat them within the country to supply the finished commodity and thus retain the manufacturer's profits. The Burma ores, for example, may well be treated within this country as Burma is very deficient in coal and thus we may get in addition to lead and silver, zinc, copper, nickel and sulphur. It may, however, still be desirable to tap and augment certain local supplies in case of essential minerals such as copper and sulphur through protection

which either the country has an exportable surplus or is self-sufficient. It is these, which make the country minerally wealthy and promise a great industrial future. These include nearly all the minerals which may be required to maintain and develop to a very high standard the basic and the key industries in the country. The minerals in which our wealth is enormous and which we export at present include iron, kyanite, magnesite, manganese, mica, talc, etc. But even here there is a leakage in our national dividend because we send abroad the ore without treating it locally and secondly because certain industries, which can prosper well on these minerals have not yet been developed in the country. To take a few examples, mica is one of the most vital minerals for the world's industry and the country is its chief supplier, but the country has failed to reap any advantage as methods of mining have remained crude with stealing as a constant feature. In the absence of any co-operation between producers or regulation of marketing it has been shipped abroad as splittings at incredibly low prices. Vast sums can be added to the national income by improved mining technique and regulation of trade as well as by converting splittings into micanite and manufacturing condenser plates within the country. Again, the entire output of ilmenite is sent abroad and it provides the world's main supply for the manufacture of titanium white. There is every reason why this should be done in India and the manufacture of ferro-titanium and titanium dioxide be taken in the country. Manganese is another case in point. Being the world's chief exporter of the ore it is not converted into ferro-manganese before export. What a loss! Manganese chemical industry is yet undeveloped. The entire output of monazite is exported without being converted into thoria and cerium. Similar is the case with kyanite and the story of magnesite is not much different, which could very well have been reserved for refractory purposes or for the production of magnesium metal. Chromite, though its exports from the country are too small for the world's industry, can be reserved with advantage for the country's industry or utilized for the manufacture of chromium chemicals. In brief, with regard to these and other minerals falling in this category we require a strict vigilance over exports and see that our reserves are not being dissipated or exported without being treated within the country as far as possible. We usually receive our imports of mineral materials after treatment. There is no reason why the country should not do the same.

Regarding iron ore, the Coal Mining Committee 1937 has given the following estimates of our reserves:—

(*i*) 60 per cent iron content 3,341 million tons.

This is however now admitted generally as an under-estimate. But taking it as correct we find that of the world's iron content reserve of some 10,684 million tons India possesses some 3,384 million tons in the first two grades only. We may still have great reserves when some of the industrial countries of to-day have turned bankrupt. But our iron and steel industry is still in infancy as compared to either our own resources or its development abroad. Imports worth more than Rs. 8 crores per annum of iron and steel were still the order of the day in addition to imports of machinery and mill-work valued at Rs. 14 crores. We, are however, obsessed yet more by another factor, *viz.*, the possibility of the exhaustion of the metallurgical coals of the country, say, a generation or so hence. New smelting methods replacing the present blast furnace have to be our sheet anchor. The country calls forth for research and more vigorous research.

Finally, there are the numerous and varied minerals in which the country is more or less self-sufficing. These include barium, bauxite, dolomite, feldspars, gypsum, limestone, nitrates, phosphates, salt and tungsten besides others. Hereto, in many cases instead of developing fully the domestic industries and deriving the maximum advantage that might have been possible by their utilization we have lagged behind or have even exported the raw material. The industries that thus await vast development are alumina and aluminium, beryllium-copper, magnesium, glass and ceramic, sulphur and sulphuric acid from gypsum, cement, calcium carbide, nitrogen fixation, caustic soda, sodium salts, chlorine, potash, chloride, bromine and even iodine and barium chemicals etc. What is required is a bold plan, installation of modern plants, supply of cheap power and transport, regulation of imports and exports and a Government with a foresight. Granted these, the minerals of the country promise a great future.

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Page	*for*	*read*
1	beaurocracy	bureaucracy
109	forming	farming
355	Oliver	Olivier.

PART I

THE BEGINNINGS

CHAPTER I

THE EAST INDIA COMPANY (UP TO 1772)

(1) 1—FIRST SETTLEMENTS AND EARLY POLICY IN INDIA

Argument:—The period from 1600 in which year the East India Company was incorporated in England by a Charter from Queen Elizabeth to 1858 in which year the Government of India passed from the Company to the Crown, is full of interest to the student of Indian history and administration. He must carefully study the following points in this period: (1) How the Company got its commercial and political privileges through Charters from the Rulers of England; (2) how it established and extended its possessions in India; (3) how, as the result of this territorial expansion, it increasingly came under the control of Parliament; and (4) how, under the guidance of the Home authorities it evolved a system of administration in India.

Nor is less important the subsequent period from 1858 to 1919 in which latter year a substantial instalment of responsible government was granted to British India. Here the student should note: (1) how the beaurocratic form of government, in spite of

many advantages, led to discontent among the people; (2) how the discontent was sought to be removed by the establishment of popular councils, which finally (3) paved the way for Responsible Government.

First Settlements in India:—I shall first of all describe how the Company established its settlements in India which in course of time expanded into territorial possessions. As a result of the great naval activity in the days of Queen Elizabeth, Englishmen went out to trade with distant parts of the world and they tried different forms of settlements in different places. They established 'plantations' and 'colonies' in America, for they had gone there with a view to stay permanently ; in India and the Far East, however, they put up "factories" only, which were well suited for trade and commerce. Such factories were early established at Surat, Madras, Masalipatam, and Hooghly and were for years confined to the coast-line of India. But the merchant-adventurers of the East India Company soon came in conflict with other European merchants who were earlier in the field, *e.g.*, the Portuguese and the Dutch. The former were very strong in the Persian Gulf and on the West Coast of India, and the latter had established prosperous trading centres in Java, Sumatra, and the "Spice Islands" generally. Here the Dutch were so strong and the rivalry between them and the English so keen that it culminated in the Massacre of Ambyona, (1623) when most of the English merchants were put to death. From that time the Company fixed their attention more and more upon India. This diversion of the attention of the Company from the Far East to India was important in this sense that it thereby

opened to them 'a wider and more Imperial destiny'* in the Indian Continent itself.

In those days commerce with the interior was difficult or impossible for foreigners unless they obtained some sort of 'Firman' or 'Patent' recognising their status and granting them protection and privileges. It was always the ambition of the pioneers of European trade to secure such Firmans from the Emperors at Delhi. In 1615 the British 'Ambassador' Sir Thomas Roe led an embassy to the Court of Jehangir and obtained from him such a Firman. But, though the English necessarily came in contact with the power of the Emperor or the local Nawab, for many years they confined themselves strictly to commercial pursuits. They took a lesson from the fate of the Portuguese and the Dutch merchants who had followed a more aggressive policy, had come in frequent collision with native powers, and as a result had to maintain large and costly establishments for their protection, to the detriment of profitable commerce. Sir Thomas Roe warned his countrymen against such a policy. He asked them to confine themselves to commerce. "Let this be received as a rule that if you will profit, seek it at sea, and in quiet trade; for without controversy, it is an error to affect garrisons and land-wars in India."†

Departure from a strictly commercial policy.—In the year 1686, largely under the influence of the two brothers Sir Joshua Child and Sir John Child, whose voice was then decisive in the affairs of the Company, a departure was made from the policy of non-interference with internal affairs. In that year an expedition

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* Roberts; 34.

† Quoted in Roberts; page 37.

was led against Chittagong. It failed ludicrously and only served to rouse the wrath of the Emperor Aurangzib, who ordered the wholesale expulsion of the English from their factories at Patna, Kasimbazar, and Masulipatam, and Vizagapatam, and they were only saved by timely submission and by a display of superior naval strength. In 1690 a treaty was made with the Emperor, by which the old privileges were confirmed. Not only were the deserted factories reoccupied, but Job Charnock established a new factory at Calcutta. "The same year, therefore, which witnessed the abasement of the Company before Aurangzib also witnessed the humble foundation of the future capital of India."*

But, in spite of this check which the English received, events were happening both in Europe and India at this time, which forced the Company to take an active interest in the affairs of India. It is true that the Portuguese and the Dutch had ceased to cause anxiety to the English; but a more powerful rival appeared in the French East India Company which, under the fostering care of Colbert, soon established factories in India. The ultimate success of the English over the Dutch and the French merchants was due, to no small extent, to the European policy of the French King Louis XIV. He was bent upon destroying the independence of the Dutch Republic. This was exactly what England wanted. For though she sympathised with the Republic and Protestant Holland on political and religious grounds in Europe, Holland was her commercial rival in the East. She, therefore, watched with delight the enfeeblement both of France and

* Roberts: p. 46.

Holland, caused by the wars of Louis XIV. As Sir Alfred Lyall points out, this gave great advantage to the naval operations of the English, "who thenceforward, began to draw slowly but continuously to the foremost place in Asiatic conquest and commerce."*

Whilst this contest for commercial and colonial supremacy between the French and the English was raging in the West, events were happening in India which rendered adherence to the policy of indifference to local affairs any longer impossible. Aurangzib died in 1707; the Subhadars of the distant Provinces of Bengal and Hyderabad virtually became independent; and above all, there was, in the Deccan, a vigorous rebirth of the Maratha power under the Peshwas.

(2) II—THE ANGLO-FRENCH STRUGGLE

The Indian counterpart of the Anglo-French struggle in Europe is comprised in the three Karnatic Wars (1744-1763).

The Karnatic Wars.—It is not proposed to go into the details of these wars. Dupleix arrived in India in 1741, and took up the cause of a claimant to the throne of Arcot; the French took Madras from the English who had espoused the claim of the rival Nawab. The treaty of Aix-la-Chapelle (1748) put an end to this war (the First Karnatic War) in which, on the whole, the French had triumphed over the English. During this war Dupleix is said to have made the 'discovery' that the irregular hordes maintained by the Indian Princes could be turned into an excellent army if they were drilled and disciplined and led by European Officers. In the Second Karnatic War (1750-54) the succession dispute at Arcot between two Nawabs was complicated

* Lyall; page 28.

by another at Hyderabad between two Nizams. Dupleix succeeded in establishing his own candidates, one as the Nizam of the Deccan, and the other as the Nawab of Karnatic. But his progress was checked by the dramatic emergence of Robert Clive who turned the tide of war in favour of the English. Dupleix was recalled and peace was made with the English in 1754. Thus, though England and France were at peace in Europe, their Companies were fighting in India and the war is therefore called an "unofficial" War. Both sides were equally exhausted and if Mahamad Ally (the English candidate) remained Nawab of the Karnatic, Salabat Jung (the French protégé) was the Nizam at Hyderabad, and thus there was a balance of power between the two European Companies in Southern India. The struggle was resumed at the outbreak of the Seven Years' War in Europe. Lally was severely defeated at Wandewash (1760) and Pondicherry was forced to surrender in 1761. The Peace of Paris (1763) though it restored Pondicherry to the French, gave a death-blow to the dreams of the French to establish an Empire in India.

Causes of the French Failure.—It is beyond the scope of this book either to examine the career of Dupleix or to discuss the causes of the final failure of the French in India. Sir Alfred Lyall has done a great deal to elucidate this subject. He distinguishes between the immediate local causes and the essential underlying causes of this failure. The leadership of men like Clive and Lawrence, and the conquest of Bengal which placed at the disposal of the English the vast resources of that Province belong to the former group. The financially rotten condition of the French East India Company; its close connection with

and helpless dependence upon the French Government and the consequent mal-administration of its affairs belong to the latter group. Thus, even supposing that Dupleix, Bussy, and Lally were free from those short-comings of temperament or character which all acknowledge, and supposing further that they had not committed the tactical blunders attributed to them, it is doubtful if they would have succeeded as against the English. The ultimate cause of the French failure is to be found, to use the words of Lyall, "in the continual sacrifice of colonial and mercantile interests to a disastrous war-policy (of Louis XIV & XV) on the Continent, and above all to the exhaustion of their naval strength which left all transmarine possessions of France defenceless against the overwhelming superiority of England."*

(3) III—EARLY FORM OF GOVERNMENT AND FACTORY LIFE IN PRESIDENCIES

The possessions of the E. I. Company in India came to be formed into three groups—Bombay, Madras and Calcutta, which became their respective capitals. Each was called a Presidency, as it was governed by a President and Council. The President was also called the Governor, and was sent out from England by the Court of Directors. The members of the Council were three in number. They were the senior merchants in the Presidency and appointed by the Directors.

The Governor and Council had great powers—civil and criminal—in their own Presidencies.

The Officials of the Company, in a 'factory' were

* Lyall: page 95.

the 'Writers', "Factors" "Junior merchants" and "Senior merchants". The writers, who were young cadets receiving only a nominal salary but having the privilege of private trade, became after a period of service, 'Factors'. The Factors, in their turn became 'Junior' and 'Senior' merchants from among whom the members of the Council were chosen.

The life of the merchant-community was centred in the 'Factory'. They led there a corporate life as in a College. The instructions which the Directors now and again sent to the Presidents and Councils of Bombay and Madras show what were the special evils against which they wished to guard their young servants. There are frequent exhortations against the evils of duelling, against intemperance, extravagance, and gambling. They also condemned private trade on the part of their servants. Nor did the Directors forget to send out suitable books for the benefit of the young. Thus though they cared first for profits, they were not unmindful of the larger interests of their servants.

It should also be noted that in course of time the factories attracted a large heterogeneous population from the surrounding country. Fortifications were built for protection, money began to be coined, justice to be administered, and a native militia entertained. As Lyall points out, in the system thus introduced was contained the germ out of which these scattered trading settlements eventually expanded into territorial dominion. *

* Lyall : page 29.

(4) IV—REVOLUTION IN BENGAL

It has been pointed out by Lyall that after 1763 the contest for ascendency in India is not between rival European Companies but between the English Company and the Native Powers. The first half of the struggle was decided on the coast line of Madras in the short period of 20 years (1745-63); the second half began in the interior of Bengal in 1756, extended over the whole of India and occupied a whole century. And curiously enough, Clive is the connecting link between these two periods and theatres of the struggle. As a reward for his services in the Karnatic Wars he was appointed in 1756 the Governor of Madras; but the condition of Bengal became so serious that he had to go to Calcutta. Ali Vardikhan the strong *Nāzim* (or Governor) of Bengal died in 1756 and was succeeded by his son Suraj-Udawala, a youth of barely 20 years of age. He was bent upon driving the English—who, against his orders were fortifying Calcutta—out of Bengal and therefore, took Kasimbazar, marched upon Calcutta and the "Black Hole" tragedy took place on 23rd June. It was for the recovery of Calcutta that Clive and Admiral Watson were sent from Madras. The position of the Company in Bengal was rendered more precarious by the negotiations of Suraj-Udawala with the French, between whom and the English the Seven Years' War had broken out in Europe. But Clive, by allying himself with Mirjafar who was plotting the overthrow of the *Nāzim*, routed his army in the battle of Plassey, and Mirjafar was made the *Nāzim*. In recognition of these services Clive was made the President of the Council and Governor of Bengal. He was thus enabled to utilise the resources of Bengal

against the French in Madras. He sent Col. Forde to the Northern Circars to divert the attention of the French, and Forde took Masulipatam in 1759 April. Col. Forde also defeated the Dutch—the only other European rival of the English in Bengal; Clive after thus establishing securely the power of the Company in Bengal, returned to England in 1760. A comparison of the position of the Company in 1756 with that in 1760 shows the magnitude of the achievement of Clive. He had raised the status of the English from a commercial Company to the supreme power in Bengal, and the accession of the wealth of Bengal also altered the position of the Company in Madras as against the French. The English got a firm footing inland from which it became easy for them to defeat their European rivals and develop their resources for the fight with the Native Princes. It gave them a position in upper or Continental India as distinguished from lower or Peninsular India. The English secured the richest Province in upper India in point of fertility and manufacture. It was a province eminently suited for maritime people. It was free from such powerful rivals as the Peshwa and Hyder in Western and Southern India.

Acquisition of Dewani :—To understand the meaning of the grant of Dewani, it is necessary to know the position of the Dewan under Moghul administration. The Viceroy or Governor of a Province was called the Subādār, or more commonly *Nawab-i-Nāzim*, or briefly, *Nāzim.* He was appointed by the Emperor. It became the practice to appoint *another* officer to the Province, called the Dewān, who was responsible for the collection of revenue, the expenditure of government money and the dispensation of civil justice. At

first the *Dewan* was subordinate to the *Nāzim*, but in course of time became a check upon him. The Dewan was also appointed by the Emperor. But in the last years of Aurangzib, Moorshid Quli Khan managed to get himself appointed *both* the *Nāzim* and the Dewan of Bengal, Bihar, and Orissa, and from that time the office of the *Nāzim* tended to become hereditary, and the Dewan came to be appointed by the *Nāzim*.

As by this time the Moghul Emperor had become a mere figurehead, and the authority of the *Nāzim* Siraj-ud-dawla disappeared after the victory of Plassey, the entire political power of the three provinces fell into the hands of the Company. There was no able statesman to make considerate use of that power. On the departure of Clive, there ensued, in the words of Sir Alfred Lyall, "the only period of Anglo-Indian history which throws grave and unpardonable discredit on the English name." Government fell in the hands of Holwell and Vansittart who now became the Governor of Bengal. As Mirjafar was not able to pay his stipulated amounts, they entered into a secret treaty with Mir Kasim, who, as the price of his elevation to the throne, presented to the Committee £200,000 out of which Vansittart got £28,000. But Mir Kasim proved a more capable and independent Ruler than was expected by the Company and protested against the abuse by the servants of the Company of the trading privileges. The whole internal trade was in the hands of these servants. They claimed exemption from the payment of all the internal duties, and under this unfair competition the Indian merchants suffered. Mir Kasim protested but as his complaints proved of

no avail, he abolished duties in the case of both English and Indian merchants. As this concession was opposed by Mr. Ellis of Patna, Mir Kasim attacked Patna and imprisoned Ellis. There was now an open rupture between Mir Kasim and the Council and the latter again made Mirjafar the *Nāzim.* Mir Kasim was defeated and he ordered the massacre of the prisoners at Patna and was finally defeated in the battle of Buxar, October 1764. As Mirjafar had died in February of the same year, the Council raised his grandson—a minor—to the throne and appointed a *Naib Nāzim* to carry on the civil administration. The Company was to be paid £50,000 per month for the maintenance of the army in Bengal.

Reforms of Clive.—Such was the condition which Clive was called upon to improve during his third visit to India.

In a letter (30th September 1765) to the Court of Directors that he wrote soon after his arrival in Bengal, Clive refers to the corruption, extravagence and luxury of the servants of the Company as the besetting sins of Government in Bengal. His labours, therefore, to remove them have been rightly characterised as the cleansing of the Augean Stables. We may, following Roberts, classify Clive's Reforms under three heads—reform of the Company's Civil and Military service; the acquisition of the Dewani; and his external policy.

With regard to the army he found that the army had encroached upon the civil administration and was in a state of insubordination. He succeeded in bringing it under control, and in removing the long-standing scandal about the Bhatta allowance. An extra allowance was allowed to the soldiers when they

were on active service; but since the days of Plassey the allowance had been continued to the army though it had returned to garrison duty. The army had come to regard the allowance as a permanent addition to the salary. They protested violently against the reduction. But Clive carried out the orders of the Court of Directors to forthwith stop the allowance.

He tried to reform the civil service by prohibiting the servants from receiving bribes and presents and from taking part in private trade. As a compensation for their loss he reserved to them the profits upon salt, betel, and tobacco in which the Company had a monopoly of internal trade. The remedial measure of Clive only served to inflict great hardships upon the people of Bengal and ruin Indian merchants. As the root-cause of the evil *i.e.*, inadequacy of the official salary was not touched, the reform of Clive was of no use.

Clive next proceeded to the reform of the Calcutta Council—which consisted of the President and sixteen members scattered over a wide area. In the place of this unwieldy body he substituted, with the sanction of the Directors, a Select Committee of four for purposes of consultation.

Clive had also to reorganize the administration of the minor Nawab Nazim-ud-dwala who had been made the *Nāzim* by his (Clive's) predecessors. Clive appointed Mahamad Rezākhan as *Naib Nāzim* and restricted his power by associating with him two Hindu grandees.

Turning his attention beyond the Provinces acquired by the Company, Clive next entered into a treaty with the Vazier of Oudh and the Emperor Shah Alum. In return for the districts of Allahabad and

Korah which the English had conquerred from the Vazier, and the annual tribute of 26 lacs from the revenues of Bengal, the Emperor was to grant to the Company the Dewani of Bengal, Bihar and Orissa. The functions of the Dewan as already explained, were of two kinds—collection of revenue, and, closely bound with it, the administration of civil justice. By the arrangements of 1765 *Nāzim* (Nāzim-ud-daula) was not relieved of his responsibility for the peace of the three Provinces and the sum of 53 lacs was to be paid to him for that purpose. The Company retained for itself whatever surplus revenue remained after paying the tribute of 26 lacs to the Emperor and 53 lacs to be paid to the minor *Nāzim*. The Company, however, did not at first take up the actual work of revenue collection or judicial administration. They appointed Mahamad Rezakhan as *their Naib Dewan*. Thus Rezakhan was at once the *Naib Nāzim* and the *Naib Dewan*. As the Directors wrote in their Despatch of May 17, 1766, "we conceive the office of the *Dewan* should be exercised only in *superintending* the collections and disposal of revenues, which though vested in the Company, should be officially executed at the Darbar, under the control of the Governor and the Select Committee. The administration of justice, the appointment of Officers, Zamindars etc. whatever comes under the denomination of civil administration, we understand to remain in the hands of the Nawab or Ministers."

The fundamental defect of this system of 'double government' was that though nominally the civil administration was vested in the Nawab all real power was in the hands of the Company, and when later on the powers of military protection and criminal

jurisdiction (*i. e.* of the Nizamat) were taken away from the *Nāzim*, he became a mere shadow with an annual pension of 53 lacs of rupees.

The foreign policy of Clive was as cautious as it was farsighted. After the decisive victory in the battle of Baxar, Clive might have annexed a portion of the territories of the Nawab—Vazier of Oudh. But he was opposed to any policy of extending the territories of the Company beyond Bengal, Bihar, and Orissa.

As he wrote to the Court of Directors, this decision disappointed many, who thought of nothing but a march with the Emperor on Delhi. "My resolution, however, was, and my hopes will be to confine our assistance, our conquest, and our possessions to Bengal, Bihar and Orissa. To go further is, in my opinion, a scheme so extravagantly ambitious and absurd, that no Governor and Council, in their senses can adopt it, unless the whole system of the Company's interest be entirely new modelled."*

This policy of friendship with the Vazier of Oudh who was to be formed as a barrier between the English possessions in Bengal and other powers in North India remained the policy of the English upto the end of the century.†

But though there is not the least doubt that the motives that actuated Clive in introducing his 'reforms' were far more creditable to him than his transactions after the battle of Plassey, his labours did not lead to any lasting results.

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* Firminger : Introduction Chapter VIII.

† Lyall : page 132.

(5) V—WORK OF WARREN HASTINGS

After the departure of Clive, things in Bengal went from bad to worse, and in 1772 Warren Hastings who was the most experienced and capable of the Servants of the Company was appointed the Governor of that Presidency. The two years of his Governorship are full of events and measures that are of interest to the student of Indian Administration. We shall consider his work under (*a*) foreign policy, (*b*) land revenue policy, and (*c*) judicial reforms.

Foreign Policy.—In Nothern India he generally adhered to the principles of Lord Clive. He accordingly lent to the Nawab-Vazier of Oudh the use of a British Army for the suppression of the Rohillas. The only annexation of territory during his regime was that of Benares, the Raja—Chaitsingh of which principality had demurred to help the English with men and money and, therefore, had been deposed.

Warren Hastings was involved in the Maratha and Mysore Wars not on his own initiative, but on account of the policy of the Bombay and Madras Governments.

Land Revenue Policy of Warren Hastings.—To explain the land revenue policy of Warren Hastings a word has to be said about the experiments tried by the President and Council at Calcutta with regard to revenue collection up to his time.

Civil Administration under the Moghuls.—Under the Moghuls the Governor of a Province was styled the Subhadar. He was the *Nāzim* and the *Dewān* was his subordinate. The original relations of these two offices have been already explained. The *Nāzim* was the chief officer charged with the administration of the criminal law and the Police, just as the Dewan was

charged with the administration of the civil law and the collection of revenue. The term *Nizāmat* denoted the office and duties of the *Nāzim*; and *Dewani*, the functions of the Dewan.

Under the Moghuls, the fiscal unit in Bengal was the Pargana administered by a Zamindar, a group of Parganas forming a *Sarkār*, or *Chaklā*. To control the Zamindar in his fiscal capacity, a *Kanungo* was appointed to each Pargana. He kept the rates of assessments, controlled the survey of the *Pargana*, and generally maintained the rights of the cultivators. What the *Kanungo* was to the Pargana, the Patwari (accountant) was to the village.

This was the normal system of revenue collection. But in his anxiety to collect as large a revenue as possible, the *Nāzim* also made use of the Faujdars whose duty was to preserve peace in the District and overawe and restrain the Zamindars. Most of the Foujdars were Persian adventurers that had secured their appointments by speculative offers of lump sums of revenue that they undertook to pay. But as they were not always successful in the collection of revenue the *Nāzim* made use of local Hindu capitalists in the shape of Zamindars. "The creation of the smaller type of Zamindars seems to have been due to the desire of the Moorshedabad power to have two strings to its revenue-bow—the Hindu who understood so intimately the habits of the people who paid the revenue, and the Foujdar who, although distrusted, could squeeze, when occasion required, the petty Zamindars."*

Turning next to the Zamindars, the first thing to note is that the term included persons of varying degree of importance, ranging from the representative

* Firminger: Introduction.

of an ancient Hindu Royal Family to the revenue-farmer who had raised himself to that status by securing a patent from the Emperor. Whatever his origin, every Zamindar was bound to pay to Government a certain share of the revenue, in return for which he enjoyed the right to retain for himself whatever he collected from the Rayats that cultivated the land in excess of the Government assessment. Below the Zamindars were the Rayats who had to pay to the Zamindars certain dues (of the nature of feudal exactions in Europe) called *Abwabs* in addition to the customary rents. The revenue interests of the Government were watched by the officer called *Kanungo* who authenticated leases and transfers of land, and checked the accounts of the Zamindar. On the other hand the interests of the village were watched by its officer called the *Patwari*, who was maintained by allowances from the cultivators and the grants of village land. The *Kanungo*, representing the State and the *Patwari* representing the village would have been invaluable officers had the whole system not been rotten on account of cesses. As it was the Rayats who suffered from both."*

But though, in practice, there were considerable departures from the theory, in Bengal the State was entitled to a revenue only, the Zamindars were entitled to customary rents, paying revenue to the State; and the Rayats had a hereditary right to the holdings, subject to the payment of customary rents to the Landlords."†

Revenue collections up to the time of Warren Hastings—It is customary with writers to pass lightly over the initial mistakes of the revenue policy of the Governor

* Firminger : Introduction. † Dutt : Early British Rule 56.

and Council at Calcutta. But these early experiments clearly show how the way was prepared for the full utilization of the grant of Dewani in course of time. When Calcutta was established in 1696 the Company got the Zamindari of the surrounding tract for which it had to pay annual rent of Rs. 1500. It had to collect rents from the Rayats and administer justice in this tract in its capacity as the Zamindar and this novel work was entrusted to a member of the Council. The next step was the acquisition of the 24 Parganas from Mirjafar as the price of the help he received from the Company for being made the Nawab of Bengal. A report was made on the condition of land revenue in this extensive tract, and instead of collecting it directly from the Rayats, or from the Zamindars, the lands were let out in 1759 to highest bidders for three years. This experiment proved disastrous both to the Rayats and the Zamindars and also did not yield satisfactory revenue to the Company. When Mirjafar was set aside in favour of Mirkasim, the Company got from the latter the three districts of Burdwan, Midnapur, and Chitagong. In each of these districts a 'Chief' was appointed as the servant of the Company, who was responsible for the collection of revenue and the administration of justice. The system of 'farming' revenue, which had been tried in the 24 Parganas was not extended to the 'Ceded' districts of Burdwan, Midnapur, and Chittagong.

When, however, Clive obtained the grant of Dewani in 1765, the actual work of revenue collection was not undertaken by the Council, even though they had got experience of such work in the 'Ceded Districts.' The newly acquired country was so vast, revenue-collection so intricate a business, and demand for

money so pressing that the Governor and Council reverted to the simple but disastrous policy of farming out lands to highest bidders. Richard Becher who was Resident at Moorshedabad has vividly pointed out the evils of the farming system. As the Zamindars could not or would not pay the exorbitant demands made upon them, they were ousted from their lands, and *āumils* who had agreed to pay a fixed revenue were put in their place. As these adventurers had no interst in the land they tried to make as much out of it as possible during their uncertain period of holding, and whole districts were thus impoverished.

It was to check these evils of farming that in 1769, the Directors ordered the appointment of two controlling Councils of Revenue, one at Moorshedabad, and the other at Patna, and also of English gentlemen known as "Supervisors" to superintend the collection of land revenue. But the remedy proved worse than the disease, because these supervisors who were young servants of the Company and who, like their seniors, were not free from the taint of private trade, soon obtained an undue influence in the district on account of their official position which they did not fail to use for their own aggrandisement. During all this time the condition of the people was going from bad to worse, and the terrible famine which visited Bengal in 1770 and which is said to have carried away a third of the population, at the very time when the revenue collections were actually increasing under the methods adopted by the Council at Calcutta, showed that the whole administrative system as established by Clive had become rotten to the core and required drastic reform.

Work of Warren Hastings.—The choice of the

Directors fell upon Warren Hastings who had risen from the lowest rank in the service of the Company to the position of a Resident at Moorshedabad and a Member of the Council at Calcutta. No other person in the service of the Company had better knowledge of the commercial and revenue affairs of that body. When he was appointed the Governor of Bengal in 1772, he and his Council adopted the following measures for the collection of land revenue in Bengal.

(1) He appointed a Committee of Circuit consisting of himself and four Members to visit the districts and to investigate the conditions of revenue collection in each.

(2) As the Directors had declared their policy to 'stand forth as the Dewan' of Bengal, Bihar, and Orissa, he suspended Mahomed Rezakhan (who as Naib Dewan since 1765 was responsible for the collection of revenue under the old system, and who was charged with embezzlement, though subsequently he was found to be innocent), and appointed 'Collectors' in the place of the 'Supervisors' appointed in 1769. This was not a mere change in the title; for the Collectors directly collected the revenue. The instructions that Warren Hastings issued to the newly appointed Collectors clearly show the multifarious duties which they were called upon to perform and the high moral standard that was expected of them by the Government. But the Collectors proved even more oppressive than the Supervisors, and the Directors ordered them to be at once withdrawn, which was done in 1773. Provincial Councils were appointed in the place of the Collectors at Calcutta, Patna, Moorshedabad, Burdwan, Dacca, and Dinajpur. The Councils collected revenue through a body of native

āmils appointed to extract the revenue. The Councils of revenue at Moorshedabad and Patna were abolished, and final authority in revenue matters was vested in the Council itself at Calcutta, to which place the treasury was transferred from Moorshedabad. Thus if Job Charnock is to be considered as founder of Calcutta as a seat of trade, Hastings may be regarded as the founder of Calcutta as the political capital of India ! *

It became soon clear, however, that the mischief lay not so much with the agency of collection but with the excessive rate of assessment. In spite of the efforts of the provincial Councils vast sums of revenue fell into arrears. In 1781, therefore, the Councils were abolished and the Collectors again reinstated in their office. They made fresh annual settlements with the highest bidders and they were guided in these operations entirely by the newly created Committee of Revenue at Calcutta. Thus the question of revenue collection in Bengal remained unsolved in the days of Warren Hastings.

(3) A new assessment was made after careful inquiry, which was to remain in force for five years; the land was put to auction, highest bidders being preferred to the old Zamindars.

(4) Hastings also tried to safeguard the interests of the Rayats from the undue exactions of Zamindars by requiring the latter to give written 'Pattas' or 'agreements' to the Rayats.

Such was the work of Warren Hastings. It is clear that some of the worst abuses of the old system were removed. He was most anxious to raise the tone of the Collectors by depriving them of the oppor-

* Firminger : Introduction page 230.

tunity of private trade. But though the machinery of collection was improved, the method of assessment continued as unsatisfactory as before.

When the 'five year' assessment (begun in 1772) was drawing to a close, Hasting proposed to make the settlement for life. His rival Philip Francis proposed to make it permanent. But neither proposal was accepted by the Court of Directors and for the next few years there were annual settlements. There is not the least doubt that the Rayats as well as the Zamindars of Bengal suffered the greatest hardships under the fluctuating and exorbitant demands of the Company.

The ultimate cause of the failure of the revenue policy of Warren Hastings is to be found in his having never appreciated the position of the Zamindars. His first anxiety was to get as large a revenue as possible to finance the commercial dealings of the Company. "The good of the people was made subservient to this primary object of the Company's administration; the rights of Princes and people, of Zamindars and Rayats were sacrificed to this dominant idea of the commercial rulers of India; and from the point of view of its effects upon the economic condition of the people the administration of Hastings was a failure.*"

Judicial Reforms of Warren Hastings.—A word must finally be said here concerning the judicial reforms of Warren Hastings. What distinguished him from most servants of the Company of his time was his insight into and appreciation of the legal codes and customary laws which the Hindus and Mahomedans had elaborated in the past, and of the system of the administration of justice.

* Dutt: Early British Rule, page 79-80.

The President and Council had come to exercise large judicial powers in virtue of various Charters. These powers were found inadequate and in 1726 the Court of Directors petitioned the King of England for the grant of more powers. A Charter of that year granted by George I accordingly authorised the establishment of the 'Mayor's Courts' in Madras, Calcutta, and Bombay. But as these Courts were composed of the mercantile servants of the Company "men of the slenderest legal attainments and the slightest judicial training"* as Kaye describes them, there was very little improvement. Nor were these Mayor's Courts—which, moreover, administered the laws of England—in any way suitable to the Indian population under the Company which was steadily growing.

From 1765 the attention of the Company was increasingly directed to a study of the indigenous Courts and the Hindu and Mahomedan Laws as applied by them to the Indian population. But the direct administration of Civil justice was not undertaken until the year 1772 when the Company determined to stand forth in the character of Dewan. This duty devolved upon Warren Hastings, who after a survey of the indigenous system of judicial administration, explained the main reforms to be effected in his letter of August 15, 1772 to the Court of Directors. Commenting upon the state of judicial administration under the Native Government, Hastings said that there were, in theory, three Courts for the decision of Civil causes (the Court of the Dewan, of the *Deputy* of the Dewan, and of the *Kazy*) and one for Police and Criminal matters (the Court of the Fouzdar); but, in fact, the

* Kaye : page 322.

Dewani Adalat was the only tribunal which exercised any real authority. (2) Under the old system, there were no Courts in the mofussil and all complainants had to go to Moorshedabad,—a procedure at once oppressive, expensive, and tedious. (3) Again the powers claimed by the Zamindars were a source of great oppression to the Rayats. The regular course of justice was everywhere suspended; but every man exercised it who had the power of compelling others to submit to his decisions.

Hastings established in each District two Courts—one Civil (called Dewani Adalat) and the other Criminal (called the Fouzdari Adalat). Over the former the European Collector (who was appointed for the collection of land revenue) was to preside; but the Criminal Court was continued under the old Mahomedan Judges, a general supervision only over them being vested in the Collectors.

At the same time Hastings established two superior Courts at Calcutta: the Sadar Dewani Adalat for Civil matters and the Sadar Nizamat Adalat for Criminal matters. The former was to be presided over by the President and two Members of the Council, and the latter by a Mahomedan Judge, under the general supervision of the Council.

The fees and perquisities which had made the course of justice vexatious and costly under the old system were abolished, and the Judges were given fixed salaries. The District Adalats brought justice within the easy reach of all.

The success of this great reform was jeoparded by the setting up of the Supreme Court under the Regulating Act in 1774. The conflict between this Court of the Crown and those established by the

Company will be referred to in the next chapter.

After this conflict had abated, important steps were taken in 1780 and 1781 which differentiated between revenue administration and judicial administration. Thus instead of the Collectors, distinct Judicial Officers were appointed in 1780 under the title 'Superintendents of Dewani Adalat' for the trial of civil cases. And in 1781 the Judges of the Civil Courts were vested with the power, as Magistrates, of apprehending offenders, though they could not try them. The subsequent history of the judicial administration in Bengal will be resumed in connection with the Reforms of Cornwallis.

(6) VI—THE EAST INDIA COMPANY IN ENGLAND

Having described so far how the original factories of the East India Company expanded into territorial possessions and how some system of administration was established in them by Clive and Warren Hastings, it is now time to turn to the History of that Company in England. The Company was formed by a Charter from Queen Elizabeth in 1600, which incorporated "George, Earl of Cumberland and 215 Knights, aldermen, and burgesses, by the name of the Governor and Company of merchants of London trading with the East Indies".

The points of permanent interest in this Charter are the following: (1) Constitution of the Company:— "The original Constitution was like that of a mediaeval guild. It was an organization of independent merchants for mutual protection and advantage. They undertook to obey certain 'regulations' as trade in those days with distant and unknown lands had its dangers; each according to his choice invested his capital in such

"voyages" as were duly approved and organised by the Company. This period of 'separate voyages' lasted till 1612. But many merchants began the practice of carrying over their profits from separate ventures and thus subscribed for a series of ventures. This system was called 'Investment in the Joint Stock'.* (2) Commercial privileges:—The Company enjoyed the monopoly of trade with the East Indies for the period of 15 years. The concession of such exclusive privileges was necessary at a time when trade with distant and unknown lands was full of risks and dangers. (3) Legislative powers:—The 'General Court' (which consisted of all those who had shares in the Company) was authorised to make laws and inflict punishments, for the good government of the Company and its servants, povided such laws and punishments were reasonable and not contrary to the laws of England.

Such was the type of private association of merchants, incorporated under a Royal Charter and enjoying commercial privileges and legislative powers, that was evolved for the extension of trade in the 17th Century. As Lyall points out, "the Charter expressed the delegation of certain Soverign Powers for distinct purposes; it amounted from one point of view to a license for private war; and the system has since had a long and eventful and curious history which has as yet by no means ended." †

The Company under the Stuarts.—James I on the whole was favourably disposed towards the Company; his Charter of 1609 made the Company perpetual and those of 1615 and 1623 authorised it to exercise martial law to maintain discipline among its servants. Charles

* Woodward: p. 84-85. † Lyall: p. 15.

I, by giving a patent to a rival Company encouraged the class of unauthorised traders with the Indies, known as 'interlopers'. Cromwell, the father of the Navigation Acts and an enemy of the Dutch (who had given asylum to the fugitive Prince Charles), gladly took up the cause of the Company and exacted from the Dutch adequate compensation for the losses suffered by the Company in the Far East.

An important change was brought about in the constitution of the Company by the Charter of 1657. Reference has been made to the system known as "investment on the Joint Stock." The next step was the adoption of the Joint Stock principle pure and simple. This was done in 1657. The entrance fee was £5, the minimum subscription for a shareholder £100; the holder of £500 Stock was to have a vote in the 'General Court,' and of £1,000 for the right of being elected as a "Committee" twenty-four of whom formed the 'Court of Directors'. "Thus was the East India Company born again; transformed, says Hunter, from the feeble relic of the mediaeval trade-guild into the vigorous forerunner of the Modern Joint Stock Company.*

The transition of the Company from a purely commercial body to a political body is seen in the new powers—as those of erecting fortifications, coining money, making of peace and war—conferred by the Charters of Charles II, who also gave to the Company the island of Bombay which from that time became the most important possession of the Company on the Western Coast of India. The transition is also marked by the following famous Resolution which the Company adopted in 1681.

* Thakore : page 10.

"The increase of our revenues is the subject of our care as much as our trade; it is that must maintain our force when twenty accidents may interrupt our trade; it is that must make us a Nation in India; without that we are but a great number of interlopers, united by His Majesty's Royal Charter, fit only to trade where nobody of power thinks it their interest to prevent us; and upon this account it is that the wise Dutch, in all their general advices that we have seen, write ten paragraphs concerning their Government, their Civil and Military policy, warfare, and the increase of their revenue, for one paragraph they write concerning trade." *

The Company after the Revolution.—The Revolution marks an important step in the career of the East India Company. As Sir William Hunter says, it brought the Company face to face with Parliament.† The monopoly of the Company was opposed by various parties on different grounds. Some were hostile to it on the old mercantile ground that trade with the East involved a continuous drain of bullion out of the country, and bullion was regarded by this school as wealth *par excellence;* others opposed not so much the trade as the monopoly of it enjoyed by the East India Company. Many enemies of the Company, therefore, formed a rival Company, and having secured the support of the powerful Whig party, petitioned the Crown to grant monopolies to private associations. But all authority had now passed from the Crown to Parliament and the House of Commons, therefore, in 1694, resolved "that *all* subjects of England have equal rights to trade to the East Indies unless prohibited by Act of

* Quoted in Ilbert's Historical Introduction.

† Hunter: Vol. II, page 275.

Parliament." Thus, as Ilbert says, the question whether the trading privileges of the East India Company should be continued was removed from the Council Chamber to Parliament, and the period of control by Act of Parliament over the affairs of the Company began.*

An unhealthy competition now arose between the old East India Company and a new Company that was started to take advantage of the new freedom of trade; and in 1708 the rival Companies were amalgamated under the new title "The United Company of Merchants of England trading to the East Indies."

Charters under the first two Georges.—The Company had now to be on good terms with the Ministers of the King, and to get extensions of their privileges by often bribing them. A Charter of 1726 empowered the Company to ordain byelaws and rules, provided they were reasonable and not contrary to the laws and statutes of England and they were not to have any force of effect until they had been approved and confirmed by order in writing of the Court of Directors. This Charter also established or reconstituted the Mayor's Court in Calcutta, Bombay and Madras and expressly introduced the laws of England into the Presidency Towns. Such Charters show how the Company had become a partially sovereign body. As Macaulay says: "It is a mistake to suppose that the East India Company was merely a commercial body till the middle of the 18th Century. Commerce was its object but in order to enable it to pursue that object it had been invested from a very early period with political powers. Its political functions attracted little notice because they were merely auxiliary

* Ilbert: Historical Introduction.

to commercial functions. Soon, however, they became more important......Long before 1765 the Company had the reality of political power. In fact it was considered by Lord Clive and Warren Hastings, as a point of policy to have the character of the Company undefined in order that they might treat the Princes in whose name they governed—as realities or non-entities as might be most convenient."*

But it was impossible to conceal for any considerable time the transformation of the company from a commercial body into a territorial power, and thus to evade two consequences which flowed from such a transformation:—*viz.*, increased Parliamentary control in England, and secondly further territorial expansion in India. We shall consider the first result in the next Chapter.

* Speech 1833.

CHAPTER II

FIRST ATTEMPTS AT PARLIAMENTARY CONTROL (1774—1784)

(7) 1—THE REGULATING ACT

Misgovernment in Bengal.—Cornewall Lewis declared in the debate held in the House of Commons on the Bill that finally transferred the Government of India from the Company to the Crown, that no civilised Government existed on the face of this earth which was more currupt, more perfidious and more rapacious than the Government of the East India Company from 1765 to 1784.

It is necessary to understand how it was possible for things to be as bad as they have been described above. The cause of the mischief has been traced to the system of 'Double Government' that was established in Bengal by Clive during his third visit to India. An account has already been given of the reforms of Clive and of the causes of their failure. He could not stop the oppression of the people by the servants of the Company or the corruption of the latter. Though the evil of private trade as carried on by the Company's servants was checked to some extent, the monopoly which was established in the production of salt proved most oppressive to the people. In fact, it was from now (1767) that the Company began to use the powerful lever of political authority to extend its commercial operations. The

surplus revenue of a populous province was utilised for the purpose of making what were called investments, or the buying of goods, raw produce, and manufacture for exportation to Europe. It followed, as Burke said, that "whereas in other countries revenue arises out of commerce, in Bengal the whole foreign maritime trade, of which the Company had monopoly, was fed by the revenue."* The dangers of this 'economic drain' were aggravated by the circumstance that at no time was the system of revenue assessment and collection more harmful than it was now. The utmost was exacted from the revenue farmers who in their turn fleeced the rayats and the Zamindars. This impoverishment went on *pari passu* with the systematic policy of killing indigenous industries of spinning and weaving which was followed by the Company.† No wonder then the famine of 1770 found the people absolutely wretched and helpless and carried away a third of their number. As Sir John Shore owned afterwards, nothing could obliterate from his mind the horrors of that dreadful time.

> Dire scenes of horror, which no pen can trace
> Nor rolling years from memory's page efface "‡

The two successors of Clive—Harry Verlst and John Cartier did nothing to improve matters. And though Warren Hastings did a great deal to reform the judicial administration of the Province (as described in the last chapter) the condition of the people went from bad to worse. His participation in "the Rohilla War" showed that even the external relations of the Company were not free from the taint of corruption.

Parliamentary Inquiry.—If the *Dewani* produced

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* Lyall : page 147. † See India under Early British Rule by Dutt.
‡ Torrens : 77-78.

in Bengal the result of intensifying the dangers of a situation in which traders had become Rulers of territories, it made the Directors in England more greedy. They regarded the Dewani as marking the beginning of a golden millenium. They raised the rate of dividend to 10 and 12 p. c. when, as a matter of fact, their financial position was very critical. The stock of the East India Company was in universal demand, not only because the dividends were high but also because the political power they represented was great.

These evils were exposed by the Committees of Parliament that were appointed to inquire into the affairs of the Company.* Though Parliament limited, in 1769, the rate of dividend to 10 p. c. the embarrassment of the Company continued and it approached the Ministry of Lord North for a loan of one million pounds. "It was natural for the East India Company to account for the failure of its expectations by the misdoings of their far distant servants and to represent their punishment and reform as the most effective and remedial measures. It was natural for the Government to forward a scheme for the better administration of Indian affairs,—measures calculated to bring the Company's business at Leadenhall more within the control of Ministers at Westminster. The policy which brought into existence the Regulating Act of 1773 looked

*NOTE :—To escape from the Parliamentary inquiries the Directors proposed to send out a Commission of supervisors to India over which Edmund Burke was asked to preside, but he refused. "How different might have been the subsequent course of events in India, had even a ground plan whereon to build had been laid down by the noble, just, generous, far-sighted intellect of him who has been truly designated by Lord Macaulay as beyond comparison the greatest man of his time." Torrens: 77-78.

in these two directions—the removal of the evils which had their operation in the constitution of the Company, and evils which had their operation in India "* and its provisions can be grouped as dealing with the one or the other set of evils.

Evils in England.—Reference has been made to the Court of Proprietors and the Court of Directors of the East India Company. The qualifications for voting in the former was the possessions of stock of the value of £500 and in the latter of £2000. The Directors were 24 in number and were annually elected. Each Director received a salary of £300. The Chairman and Deputy Chairman got £500 per year. They transacted business through various committees chosen from among themselves. The Chairman and Deputy Chairman were ex-officio members of all the committees. There were as many as ten standing 'committees' of which the following were important. (1) The Commitee of Correspondence, which was the most important, and in charge of the correspondence, to and from India. (2) The Committee of Law suits; (3) of Treasury, to provide for the payment of dividends etc., negotiate loans &c., (4) of Warehouses, mostly dealing with the import of commodities made in India; (5) of Accounts; (6) of Buying, attending to the export of articles made in England; (7) of the House, in charge of the repairs of the India House; (8) of Shipping; (9) of Account; of freight, demurrage etc. on private trade; (10) and finally, one for preventing the growth of private trade of the servants of the Company.

It will be seen from this short account that a very elaborate system had been evolved in England for the management of the affairs of the Company in India.

* Firminger: Introduction, page 255.

The chief defect arose from the 'trafficking' in votes. The ambition of the Servants of the Company, when they had made their fortune in India by fair or foul means and after their return to England where they were called 'Nabobs' in derision was either to manipulate votes in the India Office, or to enter Parliament. Parliamentary corruption and the consequent demand for Parliamentary reform which began in the latter half of the Eighteenth century can be traced to the ill-gotten wealth of these "Indian Nabobs". The Regulating Act tried to mitigate this defect so far as the East India Company was concerned by raising the qualification for a Proprietor to £1000 and for a Director to £2000, and by prolonging the period for which the Directors were elected, a quarter, instead of the whole body, being renewed annually.

Turning next to the evils that had their operation in India, the chief remedies adopted by the Regulating Act were the following:

(1) A new executive Government for Bengal.
(2) Its control over the Presidencies of Madras and Bombay.
(3) Purifying the Civil Service of abuses.
(4) Setting up of a Supreme Court at Calcutta.
(5) A new procedure for the making of Regulations.

A new Government for Bengal:—We have already referred to the defect of the system of a President and Council managing the affairs of the Company in each of the three Presidencies. The Members (generally senior merchants) were too numerous and were scattered over the whole Presidency and rarely attended the Council Meetings at Calcutta. We have also seen how Clive substituted 'a Select Committee' for consultation

in the place of this unwieldy body. But the greatest defect of the system was that all members (including the President) were servants of the same Company and thus there was no independent check over them.

By the Regulating Act, the Civil and Military Government of Bengal, Bihar, and Orissa was vested in a Governor-General and four Councillors—all of whom were named in the Act—who were to hold office for five years and who were not removable in the meantime except by the King on the representation of the Court of Directors. It is important to understand the exact meaning of this provision. Parliament sought to control the actions of the Governors by imposing upon them Councils consisting of men specially sent out from England, and such as were not servants of Company. As Briggs says, for the first time, "the King's Government assumed the privilege of appointing Commissioners as members of the Councils abroad to watch the proceedings of the Company's Governors". *

Relations with other Presidencies :—Befor the Act the three Presidencies were absolutely independent of each other, andresponsible only to the Company in England. By the Act the supremacy of the Bengal Presidency over the other two was definitely declared, at any rate in the declaration of war and negotiations for peace.

Purification of the Services:—Before the Act, the pay of the Civil and Military servants of the Company was almost nominal and few resisted the temptation of substantially increasing it (1) by extorting bribes, (2) by receiving presents, (3) by engaging in private trade and (4) by advancing money at usurious rates to Indian Princes. By the Act, liberal salaries were

* Briggs : page 218.

provided for the higher classes of servants and all were prohibited from practising the evil methods above mentioned, on pain of being fined, imprisoned, and sent to England for trial.

The Supreme Court:—Reference has already been made to the judicial reforms of Warren Hastings and to the existence in Calcutta of the Mayor's Court which was established by the Charter of 1726.

An appeal against the Mayor's Court lay to the President and Council at Calcutta, and in the last resort to the King-in-Council in England. The fundamental defect of this system was that there was no separation between the executive and the judicial officers of the Company. The very merchants whose conduct was to be judicially examined by the President and Council, were members of the Council.

But the Supreme Court was not a Court of the Company at all, but one established by a Royal Charter and consisting of a Chief Judge and three Puisne Judges. It was to exercise Civil, Criminal, Admiralty, and Ecclesiastical jurisdiction, and its jurisdiction was to extend to all British subjects in Bengal, Bihar, and Orissa, except the Governor-General and his Council who could not be arrested or imprisoned in any action or suit proceeding in the Supreme Court.

With regard to the native inhabitants of Bengal, Bihar, and Orissa suits might be filed against them in the Supreme Court with their consent. An appeal against the Supreme Court was to lie to the King-in-Council in England.

We come now to the last provision made by the Act *i. e.*, for the making of *Regulations:* :—The Governor General and Council were to have power 'to make Regulations for the good order and Civil Government

of the possessions of the Company. The Regulations so framed were required to be registered and published in the Supreme Court with the assent of the Court, and might be set aside by the King in Council.

Criticism of the Act.—Before proceeding to criticise the Act, it must be pointed out that it is the first instance of Parliament dealing with the affairs of India by means of an enactment. Parliament had no precedent to guide it, and as such, it has to be judged leniently. Lyall rightly says that the ill-constructed Regulating Act. "stands towards our latest system in the same relation as does the earliest traction engine to the present locomotive."* Further, it must be remembered that the Act was based upon the 'theory of separation of powers—legislative, judicial and executive' which was so popular in Europe at that time. Each was to be independent of and a check over the other two. Thus the 'Regulations' made by the Governor-General and Council were required to be registered in the independent Supreme Court, which in its turn was to be a check upon the servants of the Company. But this system of checks and balances was not suited to the position of the Company in Bengal, and thus during the whole period of the first Governor-General under the Act—Warren Hastings,—he had to contend against difficulties caused by the operation of the Act.

Constitution of the Council.—Out of the four Members of the Council that were named in the Act, Francis, Clavering, Monson, and Barwell, the Governor-General could depend upon the support of the last, whereas Francis had come out to India with an inveterate prejudice against Hastings and soon formed, with the

* Lyall : page 152.

help of Clavering and Monson, a standing opposition to him. And as the Governor-General was always bound by the vote of the majority, he was rendered absolutely powerless during the two years that the majority was against him *i. e.* until the death of Monson turned the tables against Francis. The Council even proceeded to undo the work which Hastings had accomplished as the Governor of Bengal during the preceding two years. This seriously undermined the position of the Governor-General not only in Bengal, but with regard to the control he was called upon to exercise over the other two Presidencies.

In this respect also the provisions of the Act were defective, for the extent of control to be exercised over the subordinate Presidencies was at once small and undefined. How serious the situation was capable of becoming is well brought out by a review of the Wars of Warren Hastings. He waged the Rohilla War before he became the Governor-General and on his own initiative. But if Hastings must bear the whole responsibility for the Rohilla War the other two Wars (with the Marathas, and Hyder) were not of his making. He protested against the Bombay Government interfering with the affairs of the Peshwa, and the Madras Government inviting the hostility of Hyder. The Marathas and Hyder, after each had proved superior over the English armies in the field of battle, now made a common cause and at no time were things as bad as they were in 1780. But Hastings rose to the occasion: an attack upon Cuttock, and the successful storming of the Fort of Gwalior induced Raghoji Bhosale and Mahadaji Scindhia respectively to make separate treaties with Hastings and to offer their intervention to negotiate

with Poona; and the death of Hyder in 1782 removed the last obstacle to the making of a lasting peace with the Peshwa (the treaty of Salbye). Thus in 1785 when Hastings resigned his office, the English were at peace with the native powers of India. "With the termination of this War ended the only period, in the long contest between England and the native powers, during which the position of the English in India was for a time seriously jeoparded. That the English dominion emerged from this prolonged struggle uninjured though not unshaken, is the result due to the political intrepidity of Warren Hastings."*

This defect of the Act was removed by the Amending Act of 1786 which authorized the Governor-General to override the majority of the Council, on his own individual responsibility.

But it was in the matter of the clauses dealing with the Supreme Court that the Regulating Act was most defective. We have already seen how Warren Hastings had established Judicial Courts in each District, and made the Governor-General in Council the highest tribunal both in Civil and Criminal matters. These Courts had been established to exercise the powers received by the Company under the Dewani. They had jurisdiction over all subjects of the Company—British and Indian,—and they mostly applied the written or customary law of the party that had sought their help.

The relations of the Supreme Court with these Courts of the Company were not precisely defined. The Supreme Court, on the ground that it was constituted by a Royal Charter, claimed the right of hearing appeals even against the highest Courts of

* Lyall : page 176.

the Company, *i.e.*, the Governor-General in Council.

Further they claimed jurisdiction upon the entire native population and not merely upon 'British subjects' as mentioned in the Act. There was no proper definition of the expression 'British Subject'. The Supreme Court included in that term the British and Indian servants of the East India Company employed in the administration of justice or the collection of revenue, and even the land holders and farmers of revenue.

It was thus inevitable that the Supreme Court should come in conflict with the Governor-General in Council, which was at once the highest judicial and executive authority of the Company in Bengal.

The difficulty was partly owing to the failure to understand the intention of Parliament in setting up the Supreme Court. "The Judges in the Mayor's Courts of the Company were junior servants of the Company, and removable at the pleasure of the President and Council. They had to decide, without any professional knowledge of the law, cases affecting the property, the liberty, and the lives of British subjects and their native dependants. The process of an appeal from the Court to the King-in-Council was tedious. The institution of the Supreme Court was, therefore, an act of reformation rather than of innovation. It was not intended to supersede or trespass upon the judicatures deriving their authority from the Moghul Constitution. The Directors looked upon the Supreme Court as an instrument to terrorize the servants in Bengal. Its establishment enabled them to take the trial of alleged offences of its servants out of the hands of a complacent Council Board, and have such cases determined by the awe-inspiring Puisne Judges

of the Crown."*

But, as already stated, the Supreme Court in exercising jurisdiction over the servants of the Company, particularly in the matter of revenue collection where there was the utmost scope for oppression and corruption—was bound to come in conflict with the Governor-General in Council. In 1781 a Parliamentary Committee was appointed to inquire into the serious situation that thus arose in Bengal, and the Amending Act of that year was passed. It laid down that the Governor-General and Council, jointly or severally, or other servants of the Company were not to be subject to the jurisdiction of the Supreme Court in their official capacity. Thus the position taken by Warren Hastings in his struggle against the Supreme Court was finally vindicated by Parliament.

As Firminger ably points out, (in his Introduction to the Fifth Report) "the survey of the years 1774-80 shows the fact that the method of the authors of the Regulating Act had produced a most serious harvest of evils. That method was to impose a feeling of responsibility on the Company's servants by confronting persons accused of oppressive conduct with the displeasure of a Supreme Court composed of His Majesty's Puisne Judges. This procedure was calculated to intimidate the fearful as well as to restrain the overbold; it ruined the moral influence of the executive, and exposed the officers of Government to continuous persecution by litigous or irresponsible persons. That the Government of the country was seriously disturbed by the intervention of the Court in matters belonging to the Dewani cannot be doubted, though the blame lies with the Act and not

* Firminger : page 256.

with the Judges."*

Nor was the Supreme Court popular with the Native population. As Mr. Cowell says "the English lawyers struck the greatest fear among the Native population;" and Macaulay described the rule of the Supreme Court as a Reign of Terror. The Court was charged with stopping the wheels of Government by technicalities of English law and of effecting a total dissolution of social order.

The conflict between the Supreme Court and the Sadar Dewani Adalat *i. e.*, the Governor-General in Council in their judical capacity was also decided in favour of the latter by the Amending Act of 1781 which confirmed the appellate jurisdiction of the Adalat. But Warren Hastings found that the Governor General and Council had not the proper machinery to receive appeals from the inferior Courts, to revise their decisions or to check them generally. He, therefore, induced his friend Sir Elejah Impey to become the Superintendent of the Sadar Dewani Adalat. "Among other things this would be a means of lessening the distance between the Board *i.e.*, (the Governor-General and Council) and the Supreme Court which has been the cause of their recent conflict."† Though this arrangement was discontinued the next year under instructions from the Court of Directors, the wisdom of Hastings was shown by the course followed in 1861 when the Supreme Court was united with the Sadar Dewani Adalat, in the High Court.

Conclusion:—It will thus be seen that the lessons taught by the Regulating Act were :—(*a*) that a majority of the Council cannot be, at any rate under the conditions of difficult communication with the Home

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* Firminger : page 257. † Firminger : page 287.

Authorities which obtained at that time the ultimate authority in India, which must be the Governor-General armed with the power (though the power may rarely be used) of over-riding the decision of that majority; (*b*) that the resort to the method of controlling the Indian executive by an independent Supreme Court was premature; and finally, (*c*) the disastrous working of the Act "ended with the conviction on the part of Parliament, that the endeavour to subject the Local Government (*i.e.*, the Governor-General and Council) to *direct* Parliamentary control was a complete failure."*

At the same time, the Regulating Act undoubtedly marks an important stage: "the administrative centre was now definitely located at Calcutta, with the Governor-General as its acknowledged head, invested with the chief control of the foreign relations of the three Presidencies, and deriving his authority from a Statute of the British Parliament."†

(8) II—PITT'S INDIA ACT OF 1784

Pitt's India Act 1784.—These lessons of the Regulating Act were not lost upon those Members of the House of Commons who were taking a keen interest in what was happening in India. Philip Francis after his return to England had formed a definite party in Parliament that was pledged to bring about the recall of Warren Hastings and to institute legal proceedings against him. The hands of this party were strengthened by the accession of Edmund Burke to it as its leader, and by the reports of the many questionable means adopted by Hastings to get money to carry on his

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* Cornewall Lewis: Speech 1853 in the H. of C.

† Lyall: page 156.

wars. Parliament was thus compelled to appoint two Committees one under Burke and the other under Dundas--to conduct an inquiry into the doings of Hastings, and as their reports were unfavourable to the Governor-General and the Cheif Justice (Sir E. Impey), it demanded their recall. But the Court of Proprietors (in which votes could be easily manipulated by any interested group) refused to recall Hastings. A grave constitutional crisis thus arose. The problem of problems now was, not how to *regulate* the affairs of the Company *in Bengal,* but how to *control* the Company *in England.*

The first solution offered was that by Charles Fox, who at this time, was in power along with Lord North, in what is notorious as the "hated coalition." Fox proposed to distinguish sharply between the commercial operations of the Company from their political dealings; he next proposed to abolish the Courts of Proprietors and Directors, and replace them by two bodies of 'Commissioners'. One (which was the less important of the two, consisting of nine members nominated by the Court of Proprietors) was to deal with the commercial affairs of the Company. To the other, which was to consist of 7 Commissioners, *all named in the Act,* was to be entrusted the entire and absolute management of the political affairs of the country such as the appointment and dismissal of the servants of the Company, the administration of the territories and revenues of the Company etc. Vacancies during the first five years were to be filled by the King alone.

Herein lay the fatal weakness of the proposals of Fox. It was rightly contended by his enemies that the proposed plan would place the entire patronage of the

East India Company in the hands of the Ministers of the Crown, and that this would seriously endanger the constitution of England. The Ministers would use the Indian patronage as an irresistible lever to control votes in Parliament and thus make themselves independent and despotic. It is to the alarm caused by this constitutional aspect of the Bill that its failure must finally be attributed, though the open hostility of King George III to Fox was the immediate cause of the Bill being thrown out in the House of Lords, and the Minister himself being forthwith dismissed.

The task of dealing with the Indian problem now devolved upon the younger Pitt, the successor of Fox. He carefully left untouched the patronage of the Court of Directors. Nor did he introduce such a radical change in the constitution of the Company as was proposed by Fox. He retained both the organs of the Company namely the Proprietors and the Directors. The latter were also allowed to manage their commerce as they liked. But their Political affairs were definitely brought under the control of the Imperial Government. This was accomplished by the creation of a Board of six Commissioners known popularly as the Board of Control. It was to consist of the Chancellor of the Exchequer, one of the Secretaries of State for the time being, and of four other Privy Councillors appointed by the King and holding office during pleasure. To this Body was committed the "superintendence, direction and control of all acts, operations, and concerns which in anywise relate to the Civil or Military Government or revenues of the British territorial possessions in the East Indies." The Board was to have an effective control over the entire correspondence to and from India. A 'Committee of Secrecy' was formed con-

sisting of the Chairman, the Deputy Chairman, and the senior Director, and when the Board issued orders requiring secrecy, the Committee of Secrecy was bound to send the orders to India without informing the other Directors. Under the changes made by Pitt, the Court of Proprietors was reduced to a position of insignificance. Their activity was confined to the receipt of dividends and the election of the Directors. The latter retained their right of making appointments in India, though the Crown was vested with the power of recalling any of the servants of the Company.

The changes made by Pitt's Act in the system of Government in India were neither numerous nor important. The Councils of the Governor-General and of the Governors were to have three instead of four Members, one of them being the Commander-in-Chief. The control of the Governor-General and Council over the subordinate Presidencies was extended to include the application of the revenues of the Presidencies.

But the Governor-General and Council were definitely precluded from making war or peace with the Indian Princes without the permission of the Court of Directors.

PART II

THE SYSTEM OF DOUBLE GOVERNMENT

CHAPTER III

HOME ADMINISTRATION (1785—1858)

(9) I—THE BOARD OF CONTROL

Introductory:—In this chapter I shall trace the system of the 'Home Administration' of Indian affair as it came to be evolved after Pitt's Act of 1784 until it was abolished, after the Mutiny, in 1858. The next two chapters will be devoted to a general review of the expansion of the British Dominions in India during the same period. The four succeeding chapters will contain an account of the administration of India during the regime of the East India Company.

Supremacy of the Board of Control.—The Regulating Act proceeded on the theory that Parliament could *directly* control the actions of the Governors of the East India Company in India by sending out Englishmen as members of their Councils or as Judges of the Supreme Court. But as this experiment led to disastrous consequences—particularly to the weakening of the Executive in India—Parliament adopted a different method—namely that of *controlling* the policy of the Court of Directors in England, so far, of course, as it related to the political affairs of the E. I. Company, leaving the Directors the entire management of their

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commercial monopoly as well as their Patronage. This was the principle underlying Pitt's India Act, which introduced what is known as the Double Government *i. e.*, of the Court of Directors and the Board of Control. But, soon, on account of various causes, all political power gravitated into the hands of the President of the Board of Control and the Directors were reduced to mere figure-heads satisfied with the 'Patronage'. It is necessary to see how this was brought about.

One cause was the changes effected in the composition of the Board from time to time. Under the Act of 1784 it consisted of 6 Members who were to be Privy Councillors. The Chancellor of Exchequer and the two Secretaries of State were three of them ex-officio, and the other three were to be nominated. The Board was vested with full power and authority to direct and control all affairs and concerns which in any wise related to the civil and military government and revenues of India. The inclusion of the two Secretaries and the Chancellor provided for the business of the Board being brought, when necessary, under the view and within the control of the Cabinet. But the active and practically the sole control of affairs rested with the nominated Commissioners whose salaries were chargeable to the revenues of India.

The constitution of the Board was modified by an Act of 1793 when the First Commissioner was called the President of the Board of Control; the other two Commissioners might be appointed from outside the Privy-Council, and the Secretary of the Board might be a Member of Parliament so that his office became a party appointment. Under this change the collective

action of the Board became a mere fiction, and all power came to reside in the hands of the President who derived additional importance from his being a member of the Cabinet. This process of concentration of power was completed when the number of Commissioners came to be successively reduced by Acts of Parliament, and after 1841 the Board consisted only of the President, the first to hold office under the new conditions being Ellenborough.

It is obvious that in the government of a distant Dependency, everything depended upon correspondence and a complicated arrangement for the receipt and sending out of despatches to and from India had been evolved. The Board was given full access to all the records and correspondence of the Company; the Court of Directors were required to supply copies of all orders and despatches sent to India within eight days of sending them and all despatches from India immediately on their receipt. No order could be sent to India without being first submitted to the Board for approval; full power was given to the Board to make alterations in the despatch, which the Court were bound to send in its altered form after, if they so desired, an exchange of opinion theron; and if the Court failed to frame despatches within fourteen days, the Board might itself frame despatches which the Court was bound to send on. Further, a Secret Committee (limited in practice to the Chairman and Deputy Chairman of the Court) was constituted and sworn to secrecy, through which Committee the Board might send secret orders to the Government of India, which the Secret Committee was bound to transmit as from themselves. Similarly, any despatches from India marked 'secret' were to be recorded at the India

office in the Secret Committee and delivered to the Board without being seen by the Directors.

The Position of the President.—The tendency of the President to domineer over his colleagues was emphasised by the procedure followed by the Court of Directors for the transaction of business, and by the composition of that body. As already stated the Directors were twenty-four in number, the qualification for election being the possession of £2000 of stock. But as one-fourth of the body went out of office every four years and remained out for one year, the permanent number was really thirty, twenty-four of whom formed at any time the Court, and 6 remained waiting until their turn of re-election came. For it should be noted that re-election was the general rule and most enjoyed a pretty long tenure of office. But as election was an expensive affair and entailed a deal of canvassing, and as the main attraction of the position of a Director was the exercise of patronage which is not always a congenial business, the best servants of the Company returning to England were prevented from becoming Directors. Very often, indeed, the scheming and the unscrupulous got themselves elected. The Court transacted business through Committees. In addition to the 'Secret Committee' consisting of the Chairman, Deputy Chairman and the Senior Director, (which, as a matter of fact, came to exercise what political power was left to the Court), this body had three other Committees. (1) for Political and Military matters, (2) for finance and home, and (3) for revenue, judicial and legislative matters.

As every detail of Indian Administration had to be referred home, correspondence assumed stupendous

proportions. It was physically impossible for the President of the Board to do justice to the 'shiploads' of drafts and despatches. The inevitable result was that most of the work was left to be done by the numerous army of clerks maintained at the India Office.

The method of carrying on business was this : every despatch that came from India went to the Examiner's Department, and the Chairman, his Deputy and the Senior Merchant, with the help of the Examiner formed the draft of the reply. It was then *privately* discussed between the Chairman of the Court and the President of the Board, any difference of opinion being removed at this stage, which was known as that of "previous communication." The draft—as now finally settled was sent to the Committee of the Court to which it belonged. The Committee suggested changes in the draft, but they were practically of no avail. The draft was then discussed in the whole Court, and then forwarded to the President as an official communication from the Court. It will be thus seen that the President settled the draft *before* availing himself of the knowledge and experience of the Directors. When it is further remembered that he, as well as the Secretary of the Board were members of a political party and came in and went out of office according to the fate of their party, and that both were generally ignorant about the conditions of India, one can realise how the administration of India became entirely irresponsible.

Nor could the Directors be an effective check over the President. As they received only £ 300 as salary, their real remuneration consisted in the exercise of patronage which was distributed as follows : Every year the number of appointments to be made in

India was first ascertained, and it was divided into twenty-eight equal parts. Two were assigned to the Chairman and Deputy Chairman of the Court, two to the President of the Board, and the remaining twenty-four to the 24 Directors. It has been calculated that the value of each share of patronage was about £15,000.

This patronage system produced two fatal results upon the position and tone of the Court of Directors. (1) It made them entirely subservient to the President, lest he should, by his Parliamentary influnce, deprive them of their patronage, as Fox once threatened to do. (2) The system also made them grasping at every increase in the revenues, and at every extension in the territories of India, for both increased their patronage and, therefore, power.

An interesting proof of the very real power that came to be exercised by the President is furnished by the practice of 'private' correspondence to which most of the Governers and the Governor-General were obliged to resort. It was essential for them to be on good terms with the President and the Ministry at Home to whom, indeed, they owed their appointment.

While thus the whole authority of superintendence, direction, and control of Indian affairs was passing into the hands of the President (who, of course, was a member of the ministry), his irresponsibility to Parliment was being increased by a silent change in the attitude of the House of Commons towards Indian questions. Before Pitt's Act, the House of Commons, thanks to the frequent financial embarassment of the Company, and to the interest of Members like Fox and Burke, was well-informed about the state of affairs in India. In fact, as the monopoly of trade enjoyed by

the East India Company was galling to the interest of those who were excluded from that monopoly, no opportunity was lost of criticising the action of the Court of Directors or of their Servants in India. But after the Act of 1784 it became the constant anxiety of the Ministry of the day to keep the affairs of India away from the gaze of the House of Commons. This was found to be the more easy, as the commercial monopoly of the E. I. Company was partially relaxed in 1813 and wholly abolished in 1833. No doubt at the time of each renewal of the Charter, Committees were appointed, and very valuable evidence collected regarding administration in India; but the interest of Parliamentary debates was confined to the commercial monopoly of the Company. Little or no notice was taken of the great measures *e. g.* land-revenue settlements, public works, judicial administration, &c. that were being adopted in India by the Servants of the Company.

The controlling hand of the President was more heavily felt in foreign affairs than in affairs of internal adminastration. In fact it should never be forgotten "that the whole foreign policy of the E. I. Company was regulated by the Board of Control—that in the solution of the most vital questions—questions of peace and war—affecting the finances of the country, and therefore, the means of internal improvement, the Court of Directors had no more power than the Mayor and Aldermen of any Corporation Town. The happiness of the people of India was dependent less upon the will of a deliberative body of four and twenty English gentlemen, a large majority of whom had studied India under an Indian sky—who, as a body had no connection with Party,

no dependence on the fate of ministries, whose official lives did not hang upon an adverse vote, and who could therefore pursue from year's end to year's end a consistent course of administrative conduct—than upon the caprice of a single man who may be gone to-morrow, who may preside over the India Board and govern India for a fortnight, and then be suddenly deposed by some gust of Parliamentary uncertainty, by the mistaken tactics of an unexperienced Party leader, or the neglect of an inefficient whip."*

That the autocracy of the President—though it involved India in costly, unfruitful, and aggressive wars on the frontier, and though it led to the adoption of measures of doubtful legality and justice for territorial expansion at the cost of the Native States, did not, in practice, lead to serious political trouble was due (1) to the efficiency of some of the earlier incumbents of this office; (2) to the moral support which the President was compelled to enlist, of the Cabinet as a whole for measures of importance; (3) to the vigilant check which many directors who were also Members of Parliament exercised upon him from their seats in the two Houses; (4) and above all to the diligence with which harmony of views and methods was maintained by means of 'Private Correspondence' between the President in England and the Governor-General in India.

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* Kaye : Page 133 (Slightly changed.) Read John Dickinson : Chapters II, III, VIII.

CHAPTER IV

HALF A CENTURY OF TERRITORIAL EXPANSION (1785—1835)

(10) 1—LORD CORNWALLIS

We saw in the second Chapter how the policy of Non-intervention ' was imposed upon Lord Cornwallis by the Act of 1784. Conditions in Northern India were favourable for adhering to such a policy. The English possessions were safe behind the ' buffer ' State of Oudh and the Nawab Vazier of that province depended entirely upon the Company for the defence of his territories. In the remaining portion of Northern India, the Marathas were everywhere in the ascendency and Mahadaji Scindia, particularly on account of his ' understanding ' with Warren Hastings, had become the real authority behind the Imperial Throne at Delhi. Lord Cornwallis refused to disturb this ascendency of the Scindia, and therefore did not help (1788) the son of Shaha Alam, who was a fugitive at Benares, to recover the Throne of Delhi from the Marathas.

But things in South India were shaping themselves differently. Here there was a balance of power between Tippu (who was smarting under the treaty of Mangalore 1784, and was anxious to check the progress of the English) ; the Marathas who (now that their internal troubles were composed by the defeat of Raghunathrao, and that the power of Nana Farnavis was firmly established at Poona) wished to regain the territories they had lost during their domestic troubles from both Tippu and the Nizam of Hyderabad ; and

finally, the last Prince, who was the weakest of the three, and therefore, most anxious to get English support, against the Marathas and Tippu.

Tippu was a great believer in the value of French help in his struggle against the English. He sent out an embassy to the Court of Louis XVI. The immediate cause of the outbreak of war was Tippu's attack upon the Raja of Travancore, an ally of the English. Lord Cornwallis formed a Triple Alliance between the English, the Marathas and the Nizam, and personally directed the operations of this war as he combined in himself the offices of the Governor-General and Commander-in-Chief Tippu was defeated and forced to part with half of his dominions and three crores of rupees. The acquired territory was equally distributed among the Allies, the English getting Malabar, Coorg, Dindigul, Baramahal, and the command of the passes through which Hyder used to descend upon Madras. Thus the Madras possessions were rendered quite immune from further trouble from Tippu.

(11) II—MARQUIS OF WELLESLEY

Wellesley's Policy—If Lord Cornwallis had to engage himself in a single war against a single power in South India Wellesley made the whole of India the theatre of extensive wars and more extensive conquests.

Mention has been made of how the struggle between the English and the French in Europe only helped to extend British power in India. The same thing was now repeated. The whole of Europe was fighting against Revolutionary France in the person of Napoleon Bonaparte. As the latter could not, on account of the Naval supremacy of the English, make a direct invasion of England, he wished to strike at his enemy in India

where he found a willing ally in Tippu Sultan. Wellesley was thoroughly imbued with that anti-French spirit with which the younger Pitt was fighting Napoleon in Europe and he was determined to check French designs in India. Immediately on his arrival in India, therefore, he found himself involved in a war with Tippu in which Tippu was completely vanquished and killed. The Mahomedan kingdom of Hyder and Tippu was altogether destroyed, and out of a portion of its still extensive dominions was recreated the Hindu Raj of Mysore which was restored to a representative of the ancient Hindu Royal Family.

But Wellesley was not to be satisfied with a local or temporary solution of the great question he had proposed to himself, what was to be the status of the English in India? Though they had come to hold a commanding position in Northern and Southern India their territorial possessions were confined to Bengal and small portions of Madras and Bombay. Wellesley was convinced that the condition for the English continuing in India was not that they were *one* among many Indian powers contending for supremacy, but that they were *the* paramount power in India. The result of the pursuit of this policy has been summed up in the statement: that under Wellesley's direction the British Empire *in* India was transformed into British Empire *of* India.

Wellesley's Subsidiary Alliances.—With this object in view he set about bringing all the remaining Indian powers in a relation of subordination to the British authorities, by means of "*subsidiary alliances.*" One of the first powers to be thus 'allied' with was the Nizam. He was indignant at the policy of neutrality adopted by Sir John Shore in his (Nizam's) struggle against

the Marathas who had defeated him (Nizam) crushingly in the battle of Kharda (1795), and who, out of resentment for his (Nizam's) desertion, was reorganizing his army with the help of French Officers. But a fresh treaty with the Nizam (September 1798) was concluded and he disbanded his new levies under French Officers, accepted an English subsidiary force to be stationed at Hyderabad and agreed to cede the territories that had fallen to his lot in the late partition of Mysore as the price of the force, and above all left his relations with the Peshwa to be shaped by the English.

As these alliances proved a powerful weapon of reducing the Indian powers to a position of subordination, a word must be said here about their general characteristics. The Prince (with whom such a treaty was concluded) had (*a*) to leave his disputes with and claims upon his neighbours to the arbitration of the English, (*b*) to discontinue all connection with foreign European powers, particularly the French, (*c*) to entertain within his territory a British Subsidiary Force for his own personal protection and for the security of his possessions, and finally, (*d*) to cede territory to the Company by way of payment for the subsidiary force.

Wellesely only developed a system that had been begun by Warren Hastings of placing English army at the dispcsal of a Prince for a monetary consideration, as in the Rohilla War, and of the treaty with the Nawab Vazir of Oudh made by Sir John Shore, by which, for the sum of 76 lacs of rupees, the Company undertook to protect that Prince. Also, before Wellesley, the British Contingent was stationed *outside* the territory of the Prince, was paid for by monthly

or annual *cash* allowances, and helped and protected the Prince on the basis of *equality*.

But this arrangement was found to be unsatisfactory as the payment of the force often fell into arrears, and, as it was still possible for the Prince to carry on his foreign relations, he could have an army of his own trained and officered by the French.

Wellesley had seen how on the European Continent the younger Pitt was carrying on the struggle against Napoleon by giving subsidies to the Continental Powers. In adopting this policy of Pitt, Wellesley reversed it and in return for subsidies (converted into territorial cessions for regularity of payment) he placed contingents of his army at the disposal of Indian Princes. The Company was thus enabled to increase vastly its own army at the cost of the Princes, and also to have it stationed in the very heart of the territory of the Princes. At the same time the danger of French influence at the Courts of Indian Princes was removed altogether. And the Company could effectively check the foreign relations of the Prince, who was thus isolated from the rest of India, and at the same time made dependent upon English support.

But the effect of these alliances on the Princes was deplorable. Even Arthur Wellesley was apprehensive about dangers of such alliances. They led to the complete annihilation of the military power of the Native States with which they were contracted. They removed the incentive on the part of the Native Rulers to be great and warlike and sympathetic towards their subjects.

The demoralising tone of such alliances has been also forcibly pointed out by Torrens. "Lord Wellesley's purpose in persuading the Native Govern-

ments to maintain within their confines bodies of British troops, organised on our model, instead of Native troops officered by Frenchmen, was too obvious to be misconceived. It was a substantial pledge exacted from jealous neighbours, that they finally renounced the hope of any other European alliance, and all privity in designs which led that way. It was obviously meant and felt, if not in public words declared, to be a guarantee against the development of schemes hostile to English interests and the growth of English ascendency. Under the direction of an intelligent Resident at the Native Court, a compact force, well armed, well paid and well in hand, would render sudden tumult abortive and to cause secret intrigue to waver continually and to look back ere committing itself too far; and in the last event of open secession (or, as it soon came to be termed, revolt) it would form a rallying point for any friends it had, and an outpost capable of defence till succour should arrive. It was the glove of mail courteously but undisguisedly laid upon the shoulder of the Native Ruler, with an irresistible but patronizing air, felt to be a little heavy and a little hard at first, but soon destined to become habitual. Slowly but steadily it begot that sense of security and irresponsibility in the Prince and his advisers which has ever proved to be the gangrene of authority, for which there is no cure."

Nor should a further disadvantage of such alliances be allowed to pass unnoticed; these alliances gave frequent opportunities of interfering in the internal affairs of the Ruler, and at the same time, the ever-recurring adjustment of payments served as the pretence for further annexation as in the case of Berar

taken from the Nizam as late as 1903.

And Sir Thomas Munro (in a letter addressed to Lord Hastings) alluded "to the inevitable tendency of the subsidiary alliance to bring every Native State under the exclusive domination of the British Government. "I can have no doubt that the subsidiary system must everywhere run its course and destroy every Government which it undertakes to protect."

Relative strengths of the English and the Marathas.—From Nizam, Wellesley turned his attention to the Peshwa and the Maratha Confederacy of which he was the head. To appreciate the struggle between him and the Marathas we ought to understand the great change that had come about in the fighting strength and resources of the English and the Native Princes since the days of Plassey and the battle of Panipat. The Indian powers against whom the English had to fight their first campaigns—the Nawabs of Karnatic and Bengal, were the weakest and the least warlike. It was only when the foreigners had thoroughly entrenched themselves in Bengal and the sea-coast of Madras that they were called upon to measure their strength against Hyder and Tippu and the Marathas. Both the Mahomedan Rulers had, with the help of French Officers reorganised their armies upon European models, and, in the case of the Marathas, the same system was first adopted by Mahadaji Schindia who had excellent opportunities of studying the organization and equipment of the armies of the English, in the First Maratha War. Having played a decisive part in the War, it was largely through him that the treaty of Salbye (1784) was concluded with the English. It was the ambition of Mahadaji to build up for himself a political power in North India

and to use it afterwards in establishing his influence in the Court of Poona. His whole scheme depended upon a strong and well-organised military force and this work was entrusted to the French adventurer General De Boigne. Holkar—who was always a rival of Scindhia—did not lag behind in having a similar military force, though on a smaller scale. But he depended more upon the leaders of the Pathan free-booters and did not quite give up the traditional methods of warfare as practised by the Marathas.

In any case it is obvious that while the Mahomedan and Maratha Princes were realising the necessity of a trained army, and naturally turned to the French Officers for help in this direction, their common antagonist the English had organised into a disciplined and well-appointed army, the warlike material which they got in India itself. "The sepoy army of England was recruited and gradually developed out of the immense floating mass of professional mercenaries who roamed about India in those days......With artillery served by men who stood fast to their guns, with a few red-coated English battalions with a strong contingent of well drilled native infantry and some excellent light cavalry, the Company's army presented a combination of war material that only wanted good handling to dispose of any opponent in Southern India."*

The last and greatest opponents of the English were the Marathas. They though severely defeated at Paniput (1761) had built up an extensive Empire, thanks to the superior organization of their armies under great leaders like the Gaikwads, the Holkars, the Scindhias, and Bhonsles. These leaders were loyal

* Lyall : page 110.

to the Central Authority of the Peshwa until the death of the great Madhavrao I in 1772. But after the First Maratha War (1775-83) the loyalty of the Maratha leaders diminished *pari passu* with the weakening of the Central Authority, and with the excellent opportunities each of those leaders obtained to carve out a dominion for himself in Central and Northern India. Holkar and Scindhia particularly began to maintain large armies trained and disciplined by French officers, and neither was blind to the imminent danger to the Maratha Confederacy threatened by the growing power of the English. Before, however, the new armies could be combined and turned against the foreigners, Mahadaji Scindhia who alone among the Marathas proved an apt pupil of his European rivals in the arts of Diplomacy, War, and Government, died in 1794. His powerful army, now entirely under the domination of French Officers, proved the ruin of his weak successor Daulatrao, who only used it to cripple Holkar in the North and the Peshwa in the Deccan. The only hope of putting off the inevitable break-up of the Empire lay in the coincidence of two things: that Nana Farnavis should once again establish his power at Poona by bringing under control the incapable Peshwa Bajirao II, and that the Governor-General should be an adherent of the policy of non-intervention. But about the very time that Lord Wellesley was at the helm of affairs in India, that he destroyed the power of Tippu, eliminated that of the Nizam, and was waiting for an opportunity to strike at Poona, Nana died (1800). With him, as Colonel Palmer said, departed the wisdom and moderation of the Maratha Government. But Bajirao, after the death of Nana, began to take revenge upon those of his Maratha and

Brahmin Sardars *e.g.*, Holkar, Patwardhan, Raste &c. who were known to be hostile to the claims of himself or his father. Among his victims was Vithoji Holkar who was cruelly put to death. On the receipt of this news Jeswantrao Holkar marched upon Poona; Bajirao being utterly defeated, fled from his capital and reached Bassein where he finally accepted the terms of a subsidiary alliance.

The Treaty of Bassein (1802) with was thus concluded with the Peshwa was the thin end of the wedge that Wellesley thrust in the Maratha Confederacy. The three Maratha Chiefs—Scindhia, Holkar, and Bhonsle, would not accept the treaty, declaring that the Peshwa as the head of the Confederacy, ought not to have contracted it without consulting them.

Before turning to the issue of this great struggle, a few remarks ought to be made here upon the relative advantages and disadvantages of the new military system adopted by the Native Princes. We may anticipate subsequent events so far as to say that Ranjitsingh 'the Lion of the Punjab' also adopted the same system. It was only when Maratha and Mahomedan powers in the South were completely overcome that the English were confronted with the consolidated power of the Sikhs. But whether the battles were fought with the Marathas or the Sikhs, History teaches the same lesson. It was the opinion of Arthur Wellesley that the cause of the defeat of the Marathas was the abandonment by them of their old method of warfare. The policy of remodelling only the army was bound to fail unless it was accompanied by a determined effort to recast the whole system of Government upon Western principles. None of the

Indian Princes realized that the efficiency of an army depends upon larger considerations than those of mere size or equipment. It depends upon the sense of duty, of patriotism, of the resourcefulness and warlike spirit of the whole nation. No efforts were made, at that time, to study and assimilate whatever was useful in Western Civilization. An army officered by Foreigners was of the nature of an excresence and not of healthy growth. As Sir Alfred Lyall says: The whole attempt of the Native Powers to imitate the military methods of Europe proved a delusion and a snare. It led them to suppose that they could put themselves on an equality with the English by a system that really placed them at a disadvantage, and to maintain upon a false estimate of their strength large military establishments under foreign officers, which it became the chief object of the English Government to disband or destroy. Nothing was easier for the English, with their command of money and war material, than to increase their own disciplined army in India up to whatever point might be necessary for maintaining superiority. Nothing, on the other hand, was more difficult for an Indian Prince than to repair his losses of cannon or trained soldiers. It is not hard to understand how, in these conditions of political and military inequality, every successive campaign in India for the last 100 years has resulted in an increase of the English territory. In fact the whole country has thus passed gradually under the dominion of the Government which excelled all the other leading States in the art of disciplined fighting, and whose stability did not in any event depend upon the life or luck of a single Ruler or General, or upon the issue of a single battle, because its resources were drawn from an

immense reserve of civilised wealth and energy beyond the sea."*

Wellesley and the Peshwa.—As already said the treaty of subsidiary alliance with the Peshwa concluded at Bassein (1802) really involved Wellesley in "the interminable war with the many-headed Maratha Confederacy."† By this treaty the Peshwa agreed to cede to the English territory worth 26 lacs of rupees, for the services of a British contingent to be stationed in his dominions. He also agreed to conduct his foreign relations through them, and even his claims upon the Gaikwad and the Nizam were left to the arbitration of the English.

Operations were simultaneously begun against the Marathas in different parts of India. In the Deccan the campaign was sharp and decisive, Arthur Wellesley (the Duke of Wellington) having defeated the combined armies of Scindhia and Bhonsle at Assaye (September 23rd 1803) and of Bhonsle at Argaon (November 29). In the North, the French-officered army of Scindhia melted away before the progress of Lord Lake who took Agra and Delhi and defeated what remained of the army of Scindhia in the battle of Laswary. By the treaty of Deogaon, the Bhonsle ceded Cuttack to the English and Berar to the Nizam; a British Resident was to be stationed at Nagpur, no foreigner was to be engaged, and all relations with outside powers were to be carried through the English. Scindhia also, by the treaty of Sirji Anjangaon (December 30th 1803) ceded all territory between the Jumna and the Ganges to the English, renounced his claims over the Rajput Princes, and also, after some time, agreed to entertain an English subsidiary force. Before, however he

* Lyall : page 200-201. † Dutt : Early British Rule, page 11.

gave effect to this treaty, the tide of war turned against the English. Jaswantrao Holkar who was holding himself aloof from the struggle during all this time could not make up his mind to fight a decisive action. On the contrary the British army under Colonel Monson that was pursuing him suffered a disastrous defeat in Rajputana and had to retreat. Holkar exacted tributes from the Rajput Princes and marched as far north as the Indus and was at the head of a large army. Lord Lake instead of striking a final blow at him laid siege to Bharatpur which was a failure. Scindhia now openly joined Holkar, and marched upon Bhopal, the Nawab of which State was an old ally of the English. Scindhia's object was to include Raghoji Bhonsle of Nagpur, and Amirkhan the Pathan leader, in a common alliance against the English. Not only did he connive at an attack made upon the English residency by his troops but he submitted a list of grievances against the Company. It thus appeared that military operations on an extensive scale would soon recommence in North India. This alarmed the Court of Directors who were already protesting against the financial burdens of the late wars of Wellesley and who had other grievances against Governor-General, and the latter, therefore, was peremptorily recalled.

Wellesley and other Native Powers.—In addition to entering into subsidiary alliances with the more important Indian Princes, Wellesley also annexed the territories of many minor Rulers on grounds which cannot bear close examination. Thus he practically annexed the whole of the Karnatic, the Nawab of which kingdom was the first ally of the English in their struggle against the French and

Hyder. But he was a mere puppet in the hands of his European creditors to whom the entire revenues of his territories had been mortgaged. He was found to be in correspondence with Tippu; and he had not paid for years the stipulated sums for the British contingent which protected him. To add to these difficulties the Nawab died and there were two claimants—the son and the nephew. The latter was made the nominal Nawab and removed to Madras, the whole civil and military government of the kingdom passing into the hands of the Company.

Advantage was also taken of succession disputes at Tanjore, to transfer the civil and military Government of this small Maratha principality to the Company.

The Nawab of Surat dying about this time, that principality also was annexed, the brother of the Nawab being retired on a pension. Similarly also the boy Nawab of Farakkabad was made to give up his possessions.

We finally come to the annexation of the territories of the Nawab Vazier of Oudh. By the treaty of 1778 a British contingent was placed at the disposal of the Vazir in return for an annual subsidy and the Company undertook not to interfere in his internal administration. Wellesley, apprehending trouble in North India, partly on account of the threatened invasion by the Afghan leader Zamanshah, but mainly on account of the impending struggle with Scindhia and Bhonsle, insisted upon considerably increasing the subsidiary force of the Vazier, and the increased force being paid for by means of the cession of territory. The Vazier, rather than accept such a treaty, showed his willingness to abdicate. He was taken at his word and was made to choose between

two alternatives: acceptance of the treaty or abdication. An army was marched into Oudh, and the helpless Nawab had to submit. He ceded in perpetuity Allahabad and other districts. As they were the frontier districts of the Nawab Vazier the portion remaining to the Vazier was enveloped by British Districts, and the English were brought in direct contact with the power of Scindhia on the whole line of the Ganges and the Jumna.

The policy of annexing one-half of the kingdom of Oudh has been condemned by historians like Mill; and even those who justify the policy base their argument on the ground of expediency. Thus Hutton, the biographer of Wellesley in the Rulers of India series, says "after all the one cardinal justification of Wellesley's policy lies, not in any benefit to the population, or in an extension of the Company's dominions or revenues, but in an absolute political necessity."

We have now glanced at the various annexations of Wellesley. His part in shaping the map of British India has been thus summarised by Sir Alfred Lyall. "By occupying the Imperial cities of Delhi and Agra with the contiguous tracts on both sides of the Jumna, and by annexing the whole country between the Ganges and the Jumna rivers, he carried forward British territory from Bengal north-westward to the mountains with a frontier resting upon the upper course of the Jumna; and by his acquisitions of the Cuttack Province he secured the continuity of British territory south-eastward along the sea-coast, joined the two Presidencies of Bengal and Madras and established sure communications between them."*

* Lyall: 231

It should be noted also in this connection that the disappearance of the Mahomedan kingdom of Tippu rendered the seacoast of southern India free from the designs of the French.

(12) III—END OF THE NON-INTERVENTION POLICY

Non-Intervention Policy—The costly wars of Lord Wellesley brought about a reaction against the aggressive policy followed by that Governor-General and, as already stated, Lord Cornwallis was sent out to India to reverse that policy. Though he died shortly after arrival, during the time of his successor Sir George Barlow, the negotiations with Scindhia and Holkar were brought to an abrupt termination and each was allowed to deal with his feudatories and neighbours as he liked. No new relations were established with any Indian powers except those with which definite treaty obligations had been previously made.

Lord Minto, under orders from the Directors, did not interfere in the affairs of Central India.

Its Results—When Lord Hastings succeeded Lord Minto, he was called upon to face a situation which was the necessary outcome of the 'Non-intervention Policy.' Those Princes with whom subsidiary treaties had been concluded, disbanded their native armies and their soldiers went to swell the hordes of free-booters known as the Pindharis. The ravages committed by bands of these marauders who had their haunts in Malwa were soon extended to the territories of the English and their allies, and their leaders were known to be in correspondence with the Peshwa, Scindhia, Holkar, and Bhonsle. Each one of these Maratha powers in turn had become a source of apprehension

to the Company. At Poona the Peshwa, Bajirao II, was chafing under the restrictions imposed upon him by the treaty of Bassein and he was secretly levying troops to oppose the subsidiary force. Daulatrao Scindhia wished to compensate himself for the territories ceded to the English by seizing the districts of Holkar and by harsh exactions from his Rajput feudatories. But he was a mere tool in the hands of his unruly army and as he was also an active supporter of the Pindharis, the centrical position he occupied with reference to military operations in North and Central India, made his attitude extremely menacing. Affairs at Indore and Nagpur were in a worse condition. Jeswantrao Holkar was dead, and the Pathan Officers of his army were all-powerful. At Nagpur also the death of Raghoji Bhonsle was followed by disputes about succession. In the end Appasaheb who was openly hostile to the English and a strong partizan of the Peshwa, got his claim recognised by the latter and became the Ruler of Nagpur.

It will thus be seen that the whole situation was fraught with the greatest dangers. Lord Hastings felt that the only way to meet it was to depart from the 'Non-intervention Policy.' He proposed to build up a confederation of such Indian powers as had suffered from the depradation of the Pathans and the Pindharis with a view to confine their ravages to a smaller area and ultimately to stop them altogether. The Directors, however, were opposed to any such plan of a general confederacy.

But the very audacity of the operations of the Pindharis demanded immediate steps to be taken. The Nawab of Bhopal, and many Rajput Rajas who had suffered most at the hands of the free-booters

were anxious for British protection and at last towards the close of 1816 Lord Hastings got the tardy and qualified permission of the Directors to adopt measures for the final suppression of the Pindharis. Lord Hastings had by this time also got his own Council to accept his policy. Armed with the instructions of the Home Authorities, and the support of his colleagues, the Governor-General soon evolved a comprehensive plan of new treaties to be concluded with the Native powers and of military operations to be set afoot against the Pendharis. A new treaty (the Treaty of Poona) was made with the Peshwa by the Resident Mountstuart Elphinstone and he agreed to actively co-operate with the English against the common enemy. But the Bhonsle and Scindhia made no response to the proposals of the Governor-General.

In his military preparations the idea of Hastings was to surround the Pindharis on all sides by marching armies upon them from all points of the compass and thus to eradicate them out of the fastnesses of Central India. Two main armies the Northern under the Governor-General himself, and the Southern under General Hislop—each consisting of many divisions began to converge upon the Pindharis. Bajirao seeing that the British force at Poona had been marched northwards, made an attack upon the Residency; but being soon after defeated in the battle of Kirkee (November 1817) he fled from his capital never to return to it again. He proceeded to Satara and taking the Raja with him went to Pandharpur and thence to Nasik. He then suddenly turned round and marched upon Poona but was defeated in the battle of Koregaon (January 1818.) The pursuit of the Peshwa was continued and he was again defeated in the battle of

Ashta. As most partisans now deserted him and as his only General, Bapu Gokhale, was killed, he now marched northwards to join Appasaheb Bhonsle of Nagpur, and Scindhia if possible. But he was being pursued by more than one British army, and haunted from place to place and unable to join either the Bhonsle or Scindhia, he finally delivered himself up to General Malcolm. The Governor-General had made up his mind to deprive the Peshwa of his dominions; a portion was reserved for the Raja of Satara, the titular head of the Maratha power: but the Peshwa was sent to Bithur near Cawnpore on an annual pension of 8 lacs of rupees.

On account of the help which he had given to the Peshwa during the latter's wanderings, and also on account of the unsuccessful attack on the Residency at Nagpur he had previously made, Appasaheb Bhonsle was imprisoned and deposed and a successor was appointed. A British garrison was stationed at Nagpur in return for which the Narbada and Saugor territories were annexed to the British dominions (1819).

The hostilities openly commenced by the Peshwa and the Bhonsle encouraged the army of Holkar to participate in the struggle against the English which had now become general. Its Pathan leader Gafurkhan had recently murdered Tulsibai—the Regent at Indore and given shelter to the notorious Pindhari leader Chitu who was being pursued by Malcolm. At last the army of Holkar was completely defeated in the battle of Mahidpur, and Malcolm, by the treaty of January 1818, deprived Holkar of his claims on the Rajput Rajas, and put a stop to the disorders that had obtained at Indore since the death of Jaswantrao.

Malcolm was also successful in smoothing the

relations of Holkar with Scindhia, and of the latter with the English. Reference has already been made to the menacing attitude of Scindhia at the beginning of the Pindhari War. But the constant watchfulness of two British armies at last forced him to conclude a treaty in 1818 by which he ceded Ajmere, and, two years later, he so far changed his general attitude towards the English as to accept what practically amounted to a subsidiary treaty.

Deprived of the help they secretly derived from the Peshwa, Bhonsle, Holkar and Scindhia, the Pindharis soon fell an easy victim to the English armies. Large bands of them were hunted down and done to death. Their leaders either submitted or perished in the jungles. Thus one of them-Amirkhan-was made the Nawab of Tonk, and Gafurkhan-the Pathan General of the army of Holkar was given a small fief. The Nawab of Bhopal who, throughout this struggle, had remained an ally of the English, was rewarded by an increase of territory.

The pacification of Rajputana was left to be accomplished by Metcalfe and Colonel Todd. The tributes which the Rajput Rajas had to pay to Scindhia or Holkar were transferred to the English, and protective treaties were made with the Rulers of Kotah, Jodhpur, Udepur, Bundi, and Jaipur. The Nizam of Hyderabad had to exchange territory belonging to the Peshwa, Holkar, and Scindhia. Nor was the Gaikwar of Baroda left out of account in the comprehensive settlement made by the Governor-General. He, out of all the members of the Maratha Confederacy, was the most subservient to the Company ever since he espoused cause of Raghunathrao Peshwa in the First Maratha War. Constant disputes about succession further

weakened his position, and when in 1817 the imbecile Anandarao died, a subsidiary treaty was made with his successor Sayajirao in 1820 by Elphinstone who was now the Governor of Bombay.

Review of Hasting's Policy.—It has been urged that the object of Lord Hastings in his treaties as well as military operations was purely defensive. He wished to protect the dominions of the Company and of its allies against the ravages of the Pindharies. He himself distinctly repudiated any aggressive design on his part. He attributed the loss of territory which the Peshwa (wholly) and the Bhonsle (partially) had to suffer to persistence in folly on their part rather than to aggressive motives on his own. He wished to suppress the predatory system "without disturbing any of the established powers of India or adding a rood to the possessions of the British Government." Whatever value we attach to this plea of Lord Hastings there is no doubt that he merely reaped the fruit of the policy of Wellesley. The Native States, in the predicament to which they had been reduced by that policy, found themselves isolated and helpless and entirely at the mercy of the English. When, therefore, the campaign against the Pindharies inevitably reached the proportions of a general war, it brought, in its wake, a comprehensive scheme of reconstruction. It proceeded upon the principle that the British Power had become the suzerain power in India. The foreign relations of the Native Princes came under the surveillance of the paramount power which also made itself responsible for their Military protection. Such was the work of Lord Hastings.

Extension of the Frontier.—The additions made to the possessions of the Company in North India–particularly

the territories acquired from the Nawab Vazir of Oudh were bound to lead to disputes with the warlike inhabitants of the mountains that cut off India from the Asiatic Continent. One of the first States that thus became involved in a war with the English was that of Nepal. Its Officers had made frequent inroads into territories that belonged to the Company, and as every effort to define the jurisdiction in a peaceful manner failed, war was declared in 1814. Partly on account of the ignorance of geography, but mosty on account of the stern resistance of the Goorkhas, the losses suffered by the English were very heavy. But in the end the Nepalese Government was forced to yield a long strip of land along Himalayas extending from Nepal to the Sutlej River. "All the hilly country that overhangs Rohilkhand, Agra and Oudh was thus annexed and the British frontier pushed Northward till it touched Tibet."*

Disputes also arose on the Eastern frontier of the Bengal Presidency. Here the *Burmans* who had been almost simultaneously with the English, extending their power came in conflict with the latter. Lord Amherst had to declare war against the Court of Ava, which yielded to the Company the Arakan and Tenasarim Provinces. Thus the Eastern Frontier was also consolidated, becoming coterminous with, in course of time, with that of Tibet.

(13) IV.—LORD WILLIAM BENTINCK AND THE NATIVE STATES

We have already considered how the subsidiary alliances were bound to produce a debilitating influence upon the Indian Princes. The steps which

* Lyall : page 263.

Bentinck—whose pacific motives are unimpeachable—had to take in the matter of many States form an effective commentary upon this statement. At Hyderabad the reigning Nizam Shikander Jah died in 1829 and his successor was allowed a larger measure of independence. But on account of financial difficulties the payment for the subsidiary force fell into arrears. At last Berar was leased to the English in satisfaction of these long-standing claims. At Mysore a long period of mal-administration set in after the retirement of the able Dewan Purnea. Sir Thomas Munro visited the capital, the Maharaja was deposed, and the whole State was placed under direct British Administration which lasted till 1881. In Coorg the Raja, after indulging in murder of his near relatives, fled away from his capital. Bentinck happened to be at Ootacamund at the time. He marched four armies into that small principality and Mercara the capital was taken and the whole State was annexed. In Oudh also there was grave mismanagement. Bentinck visited Lucknow to remonstrate with the Nawab Vazir. There was no improvement, and, as will be soon mentioned, this kingdom had to be annexed. Even the tiny State of Kachar which suffered from the same evils of mal-administration was also annexed. The Rajput States of Jaipur and Jodhpur became the scenes of civil war and bloodshed. Sir Charles Metcalfe had to intervene in the case of Jaipur, and with his help a Regency established there under the eye of a British Resident.

Such was the tone of the Native States—be they big or small, ancient or modern, Hindu or Mahomedan, situated on the hills or in the plains. Each told the same story of an administration which was as rotten as it was irresponsible.

CHAPTER V

SECOND PERIOD OF TERRITORIAL EXPANSION (1835—57)

(14) I—EXTENSION OF FOREIGN RELATIONS AND THE FIRST AFGHAN WAR

Lord Minto's Missions.—Reference has been made to the plan which Napoleon entertained of conquering Egypt and of making it the base of operations against the English in India with the help of Indian allies like Tippu. But he had to return to France where events were moving fast and where he soon became a Military Dictator. At the head of his revolutionary armies he conquered the whole of Central Europe, and made a common cause with the Czar of Russia (by the treaty of Tilsit 1807). The friendship with Russia revived the ambitious plans of Napoleon with regard to the conquest of India. The two potentates agreed to lead an army through Western Asia against India, and Russian and French Agents were busy establishing friendly relations at the Courts of Persia and Afghanistan.

It was to counteract this new danger that Lord Minto sent out three 'Missions', one under Sir Charles Metcalfe to Ranjitsing, another under Mountstuart Elphinstone to the Amir of Afghanistan, and a third under Colonel (afterwards Sir John) Malcolm to the Shah of Persia. The missions returned without achieving any striking results. The danger of a Franco-Russian invasion also vanished, for the two Emperors

could not agree as to the share of each in the partition of Turkey and Napoleon himself was called away by events in Spain and Portugal, and there was peace in Central Asia for the next twenty years. But Lord Minto had clearly foreseen the danger of Russian aggression. He had also realised that the invading enemy would probably pass through the kingdoms of Kabul and the Punjab as well as through the territories of the several independent Chiefs between Persia and India, and his policy was "to push forward a British Agency as far beyoud the Indian frontier and as near the countries from which the enemy was likely to take his departure as possible."*

Commenting upon the significance of the three Missions, Lyall says that they extended the scope of Anglo-Indian diplomacy. Hitherto the English had confined their relations only with the Princes in India. "But now for the first time they entered upon that field of diplomacy in which all the countries of Western Asia, from Kabul to Constantinople, are surveyed as interposing barriers between Europe and their Indian possessions. The independence and integrity of these foreign and comparatively distant states are hence-forward essential for the balance of Asiatic powers and for the securiry of the Indian frontiers."†

Policy of Lord Auckland.—The danger of Russian invasion was renewed at the advance of Russian Agents to the Courts of Persia and Afghanistan during the reign of the Czar Nicholas I. Lord Auckland thought that trouble was possible in three directions: (1) The Persians, chiefly under Russian instigations, had laid

* "Lord Minto in India" (quoted in Ramsay Muir: 142.)

† Lyall: 245.

siege to Herat; (2) Dost Mahomed, the leader of the Barakzai Afghans, was not only meditating schemes of aggrandizement against Ranjitsing but was definitely hostile to the English; and (3) the Chiefs of Kandahar (brothers of Dost Mahomed) avowed their adherence to Persia even when the latter was a Russian ally. The cardinal feature of the policy of Lord Auckland was to place on the throne of Kabul a strong and friendly ruler, able to check the intrigues of the Russians. "The welfare of our possessions in the East requires that we should have on our Western Frontier an ally who is interested in resisting aggression, and establishing tranquility, in the place of Chiefs ranging themselves in subservience to a hostile power and seeking to promote schemes of conquest and aggrandizement."*

A tripartite treaty was accordingly concluded in 1838 between the English, Ranjitsing, and Shah-Suja—the fugitive Amir for the elevation of the last to the Afghan throne, with the help of the first two allies. But before the Sikhs could render any effective help in the enterprise Ranjitsing died (1839) and as permission was refused to the British Army to march through the Punjab, it had to resort to the more circuitous and dreary route through the deserts of Sind, and the progress of the army was rendered at all possible through the good offices of the Amirs of that region. At the advance of the English Army upon Kabul Dost Mahomed fled and Shah-Suja was seated on the throne and it appeared as if the expedition was a great success. But the new ruler was unpopular, the whole Afghan country was up in arms against the English army of occupation, the British envoy Mac-

* Persian and Afghan Correspondence p. 299. Quoted in Ramsay Muir.

Naughton was killed and in the retreat of the army from Kabul practically the whole force perished with the single exception of Dr. Bryden.

But the hour of vengeance soon came. Lord Ellenborough who had succeeded Auckland, sent an army to Kabul in September 1842 and again the British flag was planted on Bala Hissar. At the same time the folly of Auckland's policy of forcing an unpopular ruler upon the unruly Afghans was realized, and they were left to themselves. Dost Mahomed returned to Kabul and thus was closed this first essay of the English in their frontier policy.

Annexation of Sind.—Reference must be made to one result that flowed from the First Afghan War. We have already seen how the Amirs of Sind had rendered valuable assistance to the English Army marching upon Kabul. This conciliatory attitude of the Amirs was wholly due to the tact of the English Agent in Sind—Major Outram. But in 1842 he was replaced by Sir Charles Napier—a haughty and querulous Officer.

In return for the help promised by the Amirs, Lord Auckland had undertaken to settle the claims made upon them both by Ranjitsing and the ruler of Afghanistan. For years past the Sind Amirs had been subjected to heavy exactions by one or the other of their powerful neighbours and they had formed a loose confederacy for their own protection. They agreed to virtually dissolve their union, each chief showing his willingness to treat directly with the Governor-General who undertook to mediate for them with the Rulers of Punjab and Afghanistan and who also promised to maintain a contingent in Lower Sind for the security of the province. The Indus was to

be thrown open to navigation, free of all tolls. The Amirs at first accepted these terms, but the disastrous issue of the Afghan Campaign made them restive. It was not very difficult to find fault with their internal administration. Sir Charles Napier easily persuaded himself that the Amirs were at once traitors and tyrants, and without difficulty defeated them and annexed their territories—a policy in which Lord Ellenborough quietly acquiesced.

So unjustifiable was this step that even the Directors were dissatisfied with it, and Ellenborough was recalled after only two years of administration.

As Professor Ramsay Muir points out, Ellenborough was anxious to re-establish British prestige after the failure in Afghanistan, by strong action in Sind. "Sind is the only British acquisition of which it may fairly be said that it was not necessitated by circumstances; and that, therefore, it was an act of aggression."*

And Sir Charles Napier himself was not unconscious of his aggressive policy when, in announcing his victory to the Governor-General, he said "*Peccavi*" *i.e.*, I have sinned (Sind).

(15) II—THE SIKH WARS AND ANNEXATION OF THE PUNJAB

The history of the British dealings with the Punjab falls into three periods: The first period closes with the emergence of Ranjitsing; the second covers the reign of that great Ruler; and the third refers to the last years of that Power. It is not necessary to trace here the rise of the Sikh power prior to the days of Ranjitsing; but during his reign on account of internal

* Ramsay Muir: page 311.

administration and prudent foreign policy the Sikh power was throughly consolidated; the Sikh army particularly which was the mainstay of the State was trained into a formidable machine by European Officers like—Ventura and Avitable. Successive Governors-General, therefore, *e.g.*, Lord Minto and Lord Willam Bentinck maintained friendly relations with Ranjitsing whose state thus formed 'a buffer state' between the English possessions in North India and the Afghans. But the security of the N. W. Frontier was jeopardied by the disaster of the First Afghan War and the dissatisfaction that was seething in that country, and also by the anarchy that set in the Punjab after the death of Ranjitsing.

Sher Sing, the son of Ranjit tried to keep the army under control; but he was murdered in 1842 and the *Khalsa i.e.*, Sikh Commonwealth resolved to make War upon the English and crossed the Sutlej which was the boundary between the powers. Not before four pitched battles had been fought in quick succession, Mudki, Firozshahar, Alwal, and Sobraon, was the Sikh power brought to submit. Lord Hardinge was opposed to any plan of annexation. "Once more the policy of leaving a Native State on the frontier was to be tried, and although the Sikh Kingdom could no longer be allowed to be independent, its internal sovereignty was to be left to it."* Accordingly only the country between the Sutlej and the Beas was annexed to British Dominions; an indemnity of one crore and fifty lakhs of rupees was imposed upon the Sikhs and as it could not be paid, Kashmir was transferred to Gulab Singh, an ally of the English, for half the amount; The Sikh army was reduced and a Council

* Lee-Warner: Vol I, page 148.

of Regency was appointed under Henry Lawrence, during the minority of Dulipsing, for the internal administration of the Punjab, and a British force was sent to garrison the province for the term of eight years.

Policy of Lord Dalhousie.—Such was the state of the Punjab when Dalhousie arrived in India. There was prospect of a peaceful administration under the reforming zeal of the brother Lawrences. But suddenly the storm broke. Divan Moolraj, (the Governor of Multan) who had amassed great wealth and who, therefore, was afraid of the reforms of Lawrence caused the assassination of two British Officers that were on a visit to Multan, and raised the standard of rebellion. As this took place in April, and as the army was neither large nor efficient enough for immediate action, nothing was done for some months during which time the trouble spread over the whole of the Punjab; and even Dost Mahomed the Ruler of Afghanistan, who had not forgotten the wanton aggression of the English, joined the Sikhs. The Sikh army though considerably smaller than in the First War was still unbroken, and bloody battles ensued on the fields of Ramnagar, Sadulapur, Chilianwala 'which patriotism prefers to call a drawn battle'* and Gujarat. Multan, after a protracted siege also surrendered and the Afghans were driven beyond the Indus.

The Punjab now lay prostrate and the question again arose if it should be continued as a 'buffer' Native State though considerably reduced. But Lord Dalhousie was opposed to any such policy. He thought that on account of the proximity of the Afghans, and the widespread dissatisfaction in the Punjab, no Sikh

* Hunter: page 313.

power could be continued there, and as he felt assured of full support from the Home authorities in any course that he might adopt he annexed the whole province (1849). Maharaja Dulip Singh was pensioned off to England where he lived for many years as a country gentleman.

(16) III—OTHER ANNEXATIONS OF LORD DALHOUSIE

Lord Dalhousie, three years later annexed Lower Burma as the result of a War waged on account of complaints that had been frequently made by British merchants trading at Rangoon about money unfairly exacted from them.

Doctrine of Lapse.—It was not by conquest only that Dalhousie extended the boundaries of the British Empire. In his zeal to bring as large a part of India as possible within the pale of Western Civilization, he lost no opportunity of adding to the British possessions and he found in his 'Doctrine of Lapse' a powerful weapon for territorial aggrandizement. As he himself said: "I take occasion of recording my strong and deliberate opinion that, in the exercise of a wise and sound policy, the British Government is bound not to put aside or neglect such rightful opportunities of acquiring territory or revenue, as may from time to time present themselves, whether they arise from the lapse of subordinate states, by the failure of all the heirs of every description whatsoever, or from the failure of heirs natural, where the succession can be sustained only by the sanction of the Government being given to the ceremony of adoption according to Hindu Law."

This is the Doctrine of Lapse. Now the ancient law of India allows a Hindu to adopt a son, on the failure

of natural heir, and law treats equally the adopted and the natural heir. This right had been recognized by the Moghul Emperors; and even under the Peshwas, it was in full operation though it is true that the Peshwas, as overlords charged heavy *Nazarana* or succession duty, at the time of issuing the *Sanad* or title to adopt the heir, but in no case had they denied the right or annexed the territories of their Jagirdars on the ground of failure of heir.

But upon the settlement of Central India after the Pindhari War, British Government began the practice of refusing sanction to adoption, as in the case of the Angria family of Kolaba in 1840. But such cases were rare. It was reserved for Lord Dalhousie to adopt this course systematically.

Lee-Warner points out that Dalhousie did not 'invent' the Doctrine of Lapse. He also restricted the application of this Doctrine to such states as were 'tributary' or 'subordinate' to the British Power.

But it was not easy to define and distinguish States which were independent and those which were dependent. The States that fell victim to this policy of annexation were Satara (where the claims of the adopted heir after the death of the Raja in 1848 were set aside): Sambalpur in the Central Provinces (where the Raja had died childless, without adopting an heir; Jhansi (where the rights of the adopted son of the dying Raja were not recognized); and finally Nagpur (where the heir adopted by the widow of the deceased Raja was set aside).

The policy of annexation followed in the smaller States of Beghat, Udepur, and Karauli, was practically reversed by Lord Canning, and even Lee-Warner admits 'that the case of Karauli must always be considered as

the least justifiable of the measures. taken by Dalhousie."*

It would be out of place to enter into the general question of this Doctrine of Lapse or to examine each case separately. As already pointed out, the error of Dalhousie lay in systematically applying a right (*i.e.*, of refusing sanction) which though existing in theory, was never exercised in practice. Though the Indian Mutiny was not caused by this policy of Lord Dalhousie, some of its implacable leaders were those who had suffered by this Doctrine. By the reversal of Dalhousie's decisions in two or three minor cases, and by the solemn recognition of the right of adoption given in the Queen's Proclamation after the Mutiny, this avenue at any rate of extending the British Territories was finally closed.

Further annexations.—In addition to annexation by conquest and by lapse, Dalhousie added Oudh (1856) on the ground of the protracted state of misgovernment that prevailed there; and he took Berar from the Nizam on lease, as a guarantee of payment of the long-standing arrears on account of the subsidiary force.

(17) IV—RELATIONS WITH NATIVE STATES UNDER THE CROWN

It is not proposed to consider in this volume questions affecting the Native States in India. But, as after the Mutiny, the policy of annexation was definitively given up and the integrity and continuity of such States as survived the 'second period' of territorial expansion were guaranteed, only a few remarks are offered here about the general trend of progress in the States.

* Lee-Warner: Volume II. page 171.

Sir William Lee-Warner distinguishes three periods in the development of these relations: (1) the period of 'ring-fence' extending to 1813; (2) that of 'subordinate isolations' which lasted till 1857 and (3) of 'subordinate union' which set in after the Mutiny. The essential element of the policy of the "ring-fence" was the refusal of protection to Native States lying beyond a certain limit, or, in another words, the avoidance of all ties or engagements which might possibly drag the Company beyond its own frontiers. This policy led to confusion and anarchy beyond the ring-fence and Lord Hastings broke down ring-fence and filled in the map of India with "protected" States. He deprived them of all external relations but at the same time he rightly marked off the internal administration of each Prince as outside the sphere of British action. This policy is called that of 'subordinate isolation' and was followed by his successors and was in vogue when Lord Dalhousie came out to India. Dalhousie was bent upon "getting rid of these petty intervening principalities which may be made a means of annoyance, but which can never be a source of strength for adding to the resources of the public treasury, and for extending the uniform application of our system of Government to those whose best interests, we sincerely believe, will be promoted thereby."

What the result of the policy of Dalhousie was and how it was reversed after the Mutiny has been already shown. The Queen of England promised to make no more territorial aggrandisement. But in many cases, at any rate, the misgovernment was due to the financial embarrassment caused by the heavy military charges of the subsidiary force, to the

deleterious effects of which upon the Ruling Princes a reference has already been made. Whether the Princes were in subsidiary alliance, or under protection, whether they paid or did not pay any tribute, the military burden imposed upon them was in many cases unbearable, and was the cause of misgovernment and oppression with which they were charged. In spite of cases of misgovernment, therefore, the value of the Native States was appreciated by some of the best administrators of India of the period (1800-1850). Thus Sir Thomas Munro declared—" Even if all India could be brought under British dominion, it is very questionable whether such a change, either as regards the Natives or ourselves, ought to be desired. One effect of such a conquest would be that the Indian army, having no longer any warlike neighbours to combat, would gradually lose its military habits and discipline, and that the native troops would have leisure to feel their own strength, and for want of other employment to turn it against their European masters. But even if it could be secured against every internal commotion, and we could retain the country quietly in subjection, I doubt much if the condition of the people would be better than under their native princes." (Sir Thomas then goes on to consider the advantages and disadvantages of British Rule in India and concludes that one fatal disadvantage of that Rule has been the exclusion of Indians from all share in the government of their country, and the consequent debasement of the people.) " But among all the disorders of the Native States, the field is open to every man to raise himself, and hence among them there is a spirit of emulation, of restless enterprise, and independence, far preferable to the servility of

our Indian subjects. The existence of independent Native States is also useful in drawing off the turbulent and disaffected among our native troops." Sir John Malcolm (who possessed unrivalled experience of the Native Rulers) said:—"I am decidedly of opinion that the tranquility, not to say the security of our vast oriental possessions is involved in the preservation of the Native principalities which are dependent upon us for protection. These are also so obviously at our mercy, so entirely within our grasp, that besides the other and great benefits which we derive from those alliances, their co-existence with our rule is of itself a source of political strength, the value of which will never be known till it is lost. They show the possibility of a Native State subsisting even in the heart of our own territories, and their condition mitigates to some degree the bad effects of that too general impression, that our Sovereignty is incompatible with the maintenance of Native Princes and Chiefs......I am further convinced that though our revenue may increase, the permanence of our power will be hazarded in proportion as the territories of native princes and chiefs fall under our direct rule."

Views like these triumphed after the great conflagration of the Mutiny and few now question the wisdom of preserving the Native States or deny the very important part which they may play in the progress of India as a whole. At any rate I am personally a great believer in the possibilities of the Native States.

Constitutional Position of the Native States—It is a nice question of constitutional law as to the position which the States occupy with reference to the Soverign power. Any answer to this question must take note of the

varying history and the importance of the several States, and of the treaties, Sanads and usages which govern the relations of the States with that Paramount Power. But we may say, that in the case of every Native State the British Government, as the Paramount Power.—

(1) exercises exclusive control over the foreign relations of the State;
(2) assumes a general, but limited responsibility for the internal peace of the State;
(3) assumes a special responsibility for the safety and welfare of British subjects resident in the State; and
(4) requires subordinate co-operation in the task of resisting foreign aggression and maintaining internal order.*

Lord Curzon's Views.—This varying, complex, and almost personal relation with the Native States was thus described by Lord Curzon in a speech made in 1903:—"The political system of India is neither feudalism nor federation, it is embodied in no constitution, it does not always rest upon treaty, and it bears no resemblance to a league. It represents a series of relationships that have grown up between the Crown and the Indian Princes under widely different conditions but which in process of time have gradually conformed to a single type. The Sovereignty of the Crown is everywhere unchallenged. It has itself laid down the limitations of its own prerogatives; conversely, the duties and services of the States are implicitly recognized, and as a rule faithfully discharged. It is this happy blend of authority with free will, of sentiment with self-interest, of duties with rights,

* Ilbert: 166.

that distinguishes the Indian Empire under the British Crown from any other dominion of which we read in history. The links that hold it together are not iron fetters that have been forged for the weak by the strong; neither are they artificial couplings that will snap asunder the moment that any unusual strain is placed upon them; but they are silken strands that have been woven into a strong cable by the mutual instincts of pride and duty, of self-sacrifice and esteem. It is scarcely possible to imagine circumstances more different than those of the Indian Chiefs now from what they were at the time when Queen Victoria came to the throne. Then they were suspicious of each other, mistrustful of the Paramount Power, distracted with personal intrigues and jealousies, indifferent or selfish in their administration, and unconscious of any wider duty or Imperial aim. Now their sympathies have expanded with their knowledge, and their sense of responsibility with the degree of confidence reposed in them. They recognise their obligations to their own States and to the Imperial throne. The British Crown is no longer an impersonal abstraction, but a concrete and inspiring force. They have become figures on a great stage instead of actors in petty parts. In my view, as this process has gone on, the Princes have gained in prestige instead of losing it. Their rank is not diminished, but their privileges have become more secure. They have to do more for the protection that they enjoy, but they also derive more from it; for they are no longer detached appendages of Empire, but its participators and instruments. They have ceased to be the architectural adornments of the Imperial edifice, and have become the pillars that help

to sustain the main roof."

Era of Consulting the Brinces:—In view of this new appreciation of the value of the Ruling Princes of India, it was inevitable that there should be a growing desire to consult them in a more systematic manner in matters of common interest. Many Viceroys had elaborated schemes for closer contact with the States. Thus Lord Lytton had proposed to constitute an Imperial Privy Council which should comprise some of the great Princes; Lord Dufferin succeeded in instituting the Imperial Service Troops, thus giving the larger States an opportunity to participate in the defence of the Empire; Lord Curzon took keen interest in the education of the sons of the Princes and convened a Conference of the Princes at Calcutta in 1902, and he, as well as his successor Lord Minto, had planned for the constitution of a Council of Ruling Princes. Lord Hardinge revived the practice of holding Conferences with the Princes to consider questions of higher education in the States and made no secret of his desire to seek the collective opinion of the Princes as trusted colleagues wherever possible on matters affecting their Order and Lord Chelmsford utilized these Conferences for discussion of general questions affecting the States as a whole.

The feeling of solidarity with British India and the Empire and the desire to consult the Princes were emphasized during the late War on account of the splendid services of those Princes; and in recognition of these services one of their Order was deputed, along with a representative of British India, to attend the Imperial War Conference.

It was natural, therefore, that when the question of the constitutional changes to be effected in British

India was under discussion, attention should also have been paid to the position of the Native States. The Conferences convened by Lord Hardinge and Chelmsford had proved very useful and though they were annually called, their regular meeting depended upon the invitation of the Viceroy. They have been, therefore, replaced by the constitution of the "Chamber of Princes."

Chamber of Princes—The proposals contained in the Montagu-Chelmsford Report for the constitution of a Council of Princes were placed before their Conference held in January 1919 and were generally approved. The Chamber of Princes—for that is the name finally given to this new Body—was then duly formed with the sanction of the Secretary of State, and ceremoniously inaugurated by the Duke of Connaught on February 8, 1921. It has an elected Chancellor and a Standing Committee for the transaction of business. This Chamber has already come to occupy an important place in the constitution of India as a whole.

Direct relations with the Central Government:—Another direction of recent advance has been the placing of more States in direct relation with the Government of India. The position before this was that only four large States, *i.e.* Hyderabad, Baroda, Mysore, and Kashmir, and one small State dealt directly with the Government of India through their Residents. There were some 150 States in the Central India Agency, and some twenty States in the Rajputana Agency, and two States in Baluchistan that were under Agents to the Governor-General. The remaining States were in political relations with the local Governments. Madras dealt with five States, Bombay with over 350, Bengal with 2, the United

Provinces with 3, the Punjab with 34, Burma with 52, Bihar and Orissa with 26; the Central Provinces with 15, and Assam with 16. It is obvious that relations with the Native States are a subject that should be properly dealt with by the Government of India. The authors of the Montford Report said: "It seems to us that the changing conditions of the time afford strong reason for affirming this principle (*i.e.*, that the relations are a subject for the Government of India, and not for the provincial Governments) both because the institution of a Council of Princes will give greater solidarity to the views of the States, and also because the growth of responsibility in Provincial Governments will to some extent unfit them to act in Political matters as mere Agents for the Government of India."* In accordance with this policy the States in Kathiawar, Cutch, and Palanpur were transferred from the Government of Bombay to the Governor General in December 1924. The occasion was marked by H. E. the Viceroy Lord Reading holding a special Durbar at Rajkot to announce the change. Other important States are in the process of being similarly placed in direct relation with the Viceroy.

The Viceroy has always been in charge of the Foreign Department which also manages relations with the Native States. But a new significance attaches itself—particularly after the constitution of the Princes' Chamber and the transfer of States to his direct relations—to the position of the Viceroy as the 'guide, friend, and philosopher' of the Indian Rulers who have in their hands the destinies of a fifth of the population of the Indian Continent.

* M. C. Report, Chapter X.

CHAPTER VI

ADMINISTRATION OF INDIA UNDER THE E. I. COMPANY

(18) 1—PLAN OF THE CHAPTERS

Having considered in the last two Chapters the course of the expansion of British Dominions in India, it will be appropriate now to review the results of the Administration of India by the East India Company, or "John Company" as it was called in derision by its opponents. The Company increasingly assumed a political complexion and after 1833 altogether ceased to be a commercial body. In the present Chapter the system of Provincial Government as well as the state of Finance and of Public Works will be considered. The next chapter will be devoted to the examination of the Land Settlements. Important improvements made in the Judicial Administration by Lord Cornwallis and Lord William Bentinck, and in legislation by the Charter Act of 1833 will be referred to in the Chapter following; in the same chapter, room will be found to consider the beginnings of Western Education and of the employment of Indians in the Public services of the country; finally, the whole period will be considered from the point of view of the contribution which some of the great servants of the East India Company made to the growth of the system of administration.

(19) II—HISTORY OF THE FORM OF PROVINCIAL ADMINISTRATION

The three Presidencies continued to be administered by their respective Governors and Councils; the Governor of Bengal was also the Governor-General for India and had powers of control over the other two Presidencies. These powers were emphasized and extended by the Charter Act of 1793. By the same Act the Governor-General while visiting another Presidency was empowered to supersede the Governor of that Presidency and to appoint a Vice-President to act for him in Bengal during his absence. The Act of 1833 made important changes in the system of administration. As all the Territories acquired in North India were tacked on to the Bengal Presidency it outgrew manageable limits and the Act of 1833 proposed to divide it into two Presidencies—the new Presidency being called the Presidency of Agra and being given a separate Governor with a Council which was then the approved type of Government for a Presidency. The Act also changed the title of the Governor-General from that of the Governor-General in Council of Bengal into the Governor-General in Council of India.

But the proposal regarding the Agra Presidency was never carried out. A rival arrangement was suggested by Lord William Bentinck and Sir Charles Metcalfe. They contended that on account of the great extent of territory, the task of Administration was putting an unbearable burden upon the Governor-General, that the local details so pressed upon the time of the Supreme Government that it was impossible for them to perform the higher and more

important functions of their Office and therefore proposed that the Governor-General and his Council should be relieved from the Executive administration of any of the four Presidencies.

In the final arrangement, neither the provision of the Act of 1833 nor the proposal of Bentinck was adopted, and the Board of Control, on the recommedation of the Directors appointed a Lieutenant-Governor to be selected by the Governor-General from amongst the experienced servants of the Company to the new Province. Bengal was left to be administered by the Governor-General alone with a separate establishment. That Bengal should suffer under this arrangement was a foregone result. The Governor-General, on account of his other duties, left the administration of Bengal to the care of his irresponsible Secretary. The whole position was so anomalous that the Act of 1853 had to provide that the Court of Directors might either appoint a Governor of Bengal, or authorize the Governor-General in Council to appoint any servant of the Company of 10 years' service in India to be a Lieutenant-Governor of that Province. The latter alternative was adopted. Thus Bengal which was the prototype of the Governor-in-Council form of Government was degraded from that status to the one-man rule of Lieutenant-Governor which, on the ground of its cheapness, now became the favourite model of Provincial administration with the Home Authorities.

The newly-acquired territories which were 'backward' and which contained few or no European Settlers, were given a form of administration that was even simpler than the one just now described. A provision of the Act of 1854 empowered the Governor-General in Council, with the sanction of the Court of

Directors and the Board of Control, to take by proclamation under his immediate authority and management any part of the Company's territories and provide for their administration. In practice this was done by the appointment of Chief Commissioners to whom were delegated such powers as were not required to be reserved to the Central Government.

To this period belongs the distinction between 'Regulation' Provinces and 'Non-Regulation' Provinces which requires a passing notice. To the former class belonged the three Presidencies of Madras, Bengal and Bombay, and the N.-W. Province. They were governed by the 'Regulations' made by the Governor-General in Council or Governor in Council. All other provinces—under Lieutenant-Governors or Chief Commissioners—were called 'Non-Regulation' Provinces. Rules for their administration were of a simpler kind and framed by the Governor-General. The District Officers in the Regulation Provinces were called 'Collectors' and belonged generally to the Civil Service; those in the Non-Regulation Provinces were called Deputy Commissioners, and many of them were drawn from the army.

One can see, in the appointment of the Lieutenant-Governors and Chief Commissioners, and in the distinction between Regulation and Non-Regulation Provinces, the tendency towards centralization which was in operation during the whole of this period.

(20) III—INDIAN FINANCE UNDER THE COMPANY

We have considered in the last two chapters the territorial expansion of the Company during this period. It would be worth while to examine the effect of this expansion upon the Finances of the Company. What

the Court of Proprietors in England cared for was a satisfactory dividend; this depended, in its turn, upon a surplus of revenue over expenditure in India. To 'maximise' the revenue, and 'minimise' the expenditure was the Alfa and Omega of the policy of the Directors. In the pursuit of this policy the Directors found themselves exposed to two conflicting temptations. On the one hand they kept on protesting against that expansive tendency of the policy of Wellesley, of Hastings, and of Dalhousie, which involved them in costly wars and thus balked them of their dividend; at the same time it made them reluctant to let go out of their grasp any of the newly acquired territories, as the employment of an increasing number of civil and military officers for their administration gave full play to their exercise of 'patronge'. The revenues of the Company were thus subjected to a double loss—that caused by wars, and that caused by an expensive sytem of administration, and the net financial result of the career of conquest and expansion which the Directors alternately openly disavowed and secretly desired, was an alarming addition to the debt of the Company. No efforts were spared *e.g.* exactions and tributes from Native Princes, Subsidiary Alliances, fines and forfeitures &c., for getting as large a revenue as possible. But the whole of it was swallowed by the exigencies of administration, and more was constantly demanded. Kaye gives the following account of this increasing revenue: "Under the administration of Lord Cornwallis 1792-93, the Indian revenue amounted to 8 millions of English money. Under Lord Wellesley's administration in 1804-05 it had risen to nearly 14 millions. At the close of Lord Minto's period of government in 1813-14 it was

set down at 17 millions; under his successor, Lord Hastings in 1821-22 it exceeded 21 millions; in 1852, the gross revenue was estimated at 29 millions." *

But in spite of this continuous increase of revenue the position of the Company went from bad to worse. The Company, paradoxically enough, used to have a *surplus* when the revenue was smaller. But the expensive wars of Wellesley caused heavy deficits and therefore a large public debt. The Company had to approach Parliament for assistance, and at the time of the renewal of the Charter in 1813, an important change was made in the system of keeping the accounts of the Company. From 1765 to 1813 the East India Company did not distinguish between its territorial from its commercial expenditure. But the Act of 1813 required a separation of these accounts. Lord Hastings, after attending to the grave situation of the Company's finances, calculated that the acquisition of territory made by him would yield to the Company a net annual surplus of four millions of pounds. But in spite of the additions to territory, the period from 1813 to 1833 ended with an increase in the public debt of 17 millions. In that year the Company was deprived of its last traces of commercial monopoly and the Indian Exchequer was saddled with the burden of paying more than £60,0000 for dividends to proprietors of India Stock. The extension of territory in the period 1833-53 resulted in an enormous addition to the Public Debt which rose from 39.4 million pounds in 1829 to roughly 60 million pounds in 1850.

The Financial Position in 1851-52.—A natural result of recurring deficits and heavy additions to the debt was the increase and multiplication of taxation.

* Kaye: 107.

In 1852 the principal heads of taxation were the following—the land tax, the salt tax, the customs, the opium sales, abkari, the Post Office, the stamp duties, mint, the tobacco monopoly.

The system of land tax will be explained in the next chapter. The salt tax—which was very unpopular, and which bore heavily upon the poor—contributed to the revenue in three ways: as profits of the monopoly of manufacture, as an inland duty levied in that part of the country where the production was not restricted, and as customs on the salt imported from England. The opium revenue was derived from the sale of opium (which was prepared and cultivated under the auspices of the Company) by auction to traders who exported it to China. All the taxes and other sources of revenue produced about 2450 lacs of Rupees in 1851-52, out of which, land contributed as many as 1425 lacs. On the other hand the total expenditure in the same year was roughly 2438 lacs out of which 1000 lacs was for military purposes alone.

(21) III—PUBLIC WORKS

From the continued financial difficulties of the Company (as explained in the last section), one will not be wrong in inferring that no considerable outlays were made upon the construction of Public Works during this period. The average annual amount utilised for 'Public Works in India, comprising roads, bridges, embankments, canals, tanks and wells' was about 30 lacs of rupees. In 1837-38 it was 17 lacs; in 1851-52 it was 70 lacs. But in spite of this increase, one must admit "that the amount of money expended on such works is miserably small in comparison with

the immense sums lavished on unproductive wars".* As the same authority continues, "that roads have not been made, canals have not been dug, bridges have not been built, in the number and to the extent to which the interest of the country demanded, and the benevolence of its rulers desired, was so, solely because the money which was necessary to the construction of such works has been abstracted from the public treasury to meet the expenditure incurred by the ruinous wars in which we have been engaged."

What progress was made was due entirely to the public spirit of Governor-Generals like Hastings and Hardinge, to the lessons taught by the visitations of famine in North India which brought home to the authorities the necessity of construction of Irrigation works, and finally to the labours of Engineers like Colonel Bird Smith and Sir Arthur Cotton.

As soon as some tranquility was established after the wars of Hastings, the attention of that Governor-General was drawn to the extensive system of the Jumna and Ganges Canals constructed by the Moghul Emperors, which had fallen into ruins. The restoration, therefore, of the Western and Eastern canals of the Jumna, was the first great achievement of the new administration. The name of Colonel Colvin is associated with these works.

The famine of 1838-39 pointed to the restoration of the Ganges Canal—which was sanctioned by Lord Auckland—"a man of humane nature, and, when left to himself, of sound discretion in quiet times."† Lord Ellenborough wished to have the canal mainly for the purposes of navigation, and under such conflicting views, no progress was made until the time of Lord Hardinge. The latter put his heart into the project and

* Kaye : 316. † Kaye : 288.

thus the great work was accomplished. The Ganges Canal has been described "as one of the most magnificent works in the world."*

In the newly acquired province of the Punjab, the development of the country by irrigation was one of the leading ideas of Lawrence from the first. The proposals of Lawrence were cordially approved by Lord Dalhousie and materialized in the Baree Doab Canal.

Commenting upon the material and moral advantages of irrigation, Kaye rightly observes: "To fertilise the land is to civilize the people. It is impossible to conceive anything that will have a greater effect upon the civilization of the inhabitants of Upper India than the great remedial measures which guard them collectively against all the barbarising and demoralising effects of famine, and secure to every man individually his daily bread".†

The question of irrigation in South India—where the physical conditions are different from those of the North was tackled by Sir Arthur Cotton, and he projected and far advanced large schemes in the deltas of the three great rivers in Peninsular India—the Krishna, the Godavari, and the Kavery.

Equally important was the provision of the means of communication—the Trunk Road from Calcutta to Delhi (1423 miles), and the Bombay Agra Road commenced in 1840 (740 miles) being the outstanding achievements in this direction.

In spite of these results, the general complaint against the Directors was that they did not apply sufficient funds for Public Works: nor did they allow such works to be undertaken by private agency.

* Kaye : 301. † Kaye : 304.

CHAPTER VII

HISTORY OF THE LAND REVENUE SETTLEMENTS

During the whole regime of the Company as during all the years since then, land revenue has been the main prop of Indian Finance. Also the collection of land revenue has always been the primary duty of every Indian Ruler. We must, therefore, carefully examine the various systems of Land Revenue Settelments in Bengal, Madras, Bombay, the North-West Provinces, the Punjab and the Central Provinces.

(22) I—THE PERMANENT SETTLEMENT OF BENGAL

Reference has already been made to the experiments in land revenue collection made by the President and Council of Calcutta since the acquisition of Dewani in 1765, and to the reforms of Warren Hastings. The impoverished condition of the Rayats and Zamindars of Bengal as well as the general policy of Warren Hastings attracted great attention in England, and when Parliament passed the Act of 1784 it laid down definite reforms to be carried by the new Governor-General *viz.*, Lord Cornwallis. The most important of the duties was the making of an inquiry into the injustice done to the Rajas, Zamindars, and other land-holders of Bengal, and "the settling, upon principles of moderation and justice, according to the

laws and constitution of India, the *permanent* rules by which their tributes, rents, and services shall be in future rendered and paid to the Company."

The first part of this duty namely the inquiry, was most admirably performed by Sir John Shore and embodied in his Minute of 18th June 1789. Lord Cornwallis, who had no previous knowledge of India, guided himself entirely by the advice of Sir John Shore, and the declared view of the Directors "that a *moderate permanent* assessment was more beneficial both to the State and to the people than a heavy fluctuating one, and that it should be made with the Zamindars."

To revert to the state of things which prevailed at the time of the departure of Warren Hastings: the Collectors had been again appointed and they were rigidly controlled by the Committee of Revenue at Calcutta; the settlement was annually made, and lands were let out to the highest bidder.

The first step in the direction of reform was taken in April 1786 when the shifting *parganas* and *chaklas* were permanently grouped into compact districts, each under a Collector. Full trust was now placed in this officer; the Zamindars were to look up to him for a fair assessment of revenue; the Committee of Revenue at Calcutta were to look up to him for information. The establishment of the Collector as the chief authority in the district, charged with its revenue collection and general administration is the basis of all subsequent administration throughout India.

In June 1786 the Committee of Revenue was reconstituted as Board of Revenue for the general supervision and control of the fiscal operations of the Collectors.

The ground was now prepared for the great reform of Lord Cornwallis.

Three questions were raised:

(a) With whom was the settlement to be made?

(b) On what basis was the assessment to be made?

(c) What was to be the length of that Settlement?

(a) With regard to the first question, Sir John Shore pointed out that there were three possible alternatives. The Settlement could be made directly with the rayats; it could be made with any persons chosen by the Company for that purpose, who undertook to pay the revenue; or it could be made with the Zamindars. Now in the state of Bengal at that time a settlement with the rayats was inconceivable; and the mischievous and disastrous results of the second method of forming out revenue were so patent that that method also was equally out of question. It was then decided to make a settlement with the Zamindars.

The question immediately arose as to the status and rights of the Zamindars. One extreme view on this subject was that held by James Grant—an able servant of the Company at that time—who maintained that the Zamindar was merely a temporary official, and that the property in land vested absolutely in the State. Opposed to this was the view of Sir John Shore (also shared by Lord Cornwallis) that the proprietory right in land belonged to the Zamindar. "The rents belong to the sovereign; the land to the Zamindar." Sir John thus defined the right of the Zamindars: "I consider the Zamindars as the proprietors of the soil, to the property of which they succeed by the right of inheritance, according to the laws of their own religion, and the sovereign authority cannot justly exercise the power of depriving them of succession, nor of altering it when there are any legal heirs. The privilege of disposing the land

by sale or mortgage is derived from this fundamental right and was exercised by the Zamindars before we acquired the Dewani".

(b) Next as to the Principle of Assessment. Here also James Grant and Sir John held opposite views. The former was of opinion that it should be based upon the highest Moghul assessment as it was prior to 1765 (that is before the grant of Dewani); but there were obvious practical difficulties in adopting this standard. Sir John Shore, therefore, took the assessments as they were being actually made during the few years preceding the Permanent Settlement. In the absence of detailed information, it was fixed upon arbituary grounds, and was fixed as high as possible, in view of its being declared to be permanent.

(c) Finally, with regard to the period of Settlement, there was difference of opinion between Sir John Shore and Lord Cornwallis. The former held that the Settlement should be made initially for a period of ten years. He was opposed to an *immediate* permanent settlement on the ground that the requisite data for such a settlement were lacking. But Lord Cornwallis was so much anxious to give a sense of security to the Zamindars against increase of assessment, that he declared the Settlement made in 1789 permanent, provided only the sanction of the Directors was obtained, which was done within two years. Thus the very first Regulation of 1793 embodied the Permanent Settlement of Bengal.

Criticism.—The most diverse views have been expressed with regard to the merits of the Permanent Settlement. A typically adverse view is that of the biographer of Cornwallis, Mr. Seton Karr. The circumstance that he belonged to the Bombay Service

where the *Rayatwari* system prevails, possibly accounts for the adverse judgment of Mr. Seton Karr.

"Lord Cornwallis had only the experiments and the legacies of failure to guide him. Pressed for ways and means and anxious for reforms in more departments than one, he committed himself to a policy which in regard to the three interested parties, the Zamindar, the Rayat, and the Ruling Power—assured the welfare of the first, somewhat postponed the claims of the second, and sacrificed the increment of the third."

On the other hand, a very high authority on land revenue administration—the late Mr. R. C. Dutt, characterised the measure as one that "has done more to secure the prosperity and happiness of British subjects in India than any other single measure of the British Government." *

A complete discussion of and final judgment upon the Permanent Settlement must be postponed until we have passed under review the settlements in other Provinces of India. But there is no doubt that the class that benefited most by the measure of Cornwallis was that of the Zamindars. Though their share of the rental at the time of the settlement was only 1/10th of the gross rental, competent authorities now reckon it at 75 p.c. of the rental,† Government getting only 25 p.c. as land revenue, It was the expectation of Lord Cornwallis that the Zamindars would devote an increasing share of their wealth to the improvement of land. But the general opinion is that they have not improved the land to any considerable extent; but it has to be admitted that the wider diffusion of education and the cultivation of literature and art, which we find in Bengal are to be traced to the

* Dutt: Early British Rule, p. 9 † Shah: page 9.

wealthy and leisured class of Zamindars to be found there.

The condition of the Rayats changed for the worse rather than improved, for some years after the Permanent Settlement; for though the State had fixed for ever its own demand on the Zamindars, the latter could take as much as they liked from their tenants. A whole series of laws—known as Tenancy Acts—had to be passed before all the advantages of the settlement reached the Rayats. But even with this reservation it is worth while referring here to the testimony of Sir John Malcolm who said "I must ever think it (the permanent settlement), one of the most wise and benevolent plans that ever was conceived by Government to render its subjects rich and comfortable."

That the Permanent Settlement has entailed upon the State an enormous loss of revenue, cannot be gainsaid. It is no answer to this criticism to say that the State can compensate itself for the loss of land revenue of a particular Province, by overtaxing other Provinces, or interests other than agriculture in the same Province. It was this loss of revenue that disposed the authorities in England to look askance at the Permanent Settlement. They opposed its extension to other Provinces of India and after a controversy that raged for more than three quarters of a century, rejected it altogether. A word will be said about this controversy at a later stage.

(23) II—LAND SETTLEMENT IN MADRAS

Condition of the Karnatic—The protracted struggle between the English and the French had told heavily upon the condition of the cultivators and the Nawab of

Karnatic was a mere puppet in the hands of the Madras Council. He had borrowed extensively from the servants of the Company and made assignments of land-revenue to his British money-lenders who, to recoup themselves, extorted as much money from the people as possible. The misery of the people was increased by the wars with Hyder and Tippu.

To turn next to the condition of the *Northern Sarkars.*—After the acquisition of these Sarkars, a Committee of Circuit was appointed in 1775 as in Bengal to inquire into the condition of these Districts and its inquiries lasted till 1788. It appeared that the lands were principally held by Zamindars who were the descendants of the ancient Hindu Rajas who paid a fixed tribute to the Mahomedan Government. Besides these Zamindars there were certain demesne or household lands of Government known as *Haveli* lands, which, after division into suitable lots were granted out to agents. Both in Zamindar and Haveli territories there existed Village Communities.

With the Zamindars short Settlements were made from time to time; The Company's Chief and Council were abolished and Collectors, under the control of the Board of Revenue were appointed in 1794, as they had been appointed in Bengal in 1786. By that time the Permanent Settlement had been made in Bengal and it was extended to the Sarkars between 1802-1805 during the regime of Lord Clive, the son of the Victor of Plassey. The Haveli lands, also, between 1812-14 were parcelled out into blocks and sold by auction as Permanent Zamindari Estates.

But this Permanent Zamindari Settlement was confined to the Northern Sarkars alone. When in 1792 the *Baramahals* were taken from Tippu, their

administration was entrusted to a group of soldiers headed by Captain Read. One of his assistants was the celebrated Thomas Munro whose name is associated with the Revenue Settlement of Madras, known as the Rayatwari Settlement.

From Baramahal, Munro was transferred to the large tract between the Krishna and the Tungabadra known as the "Ceded Districts." It was here that during seven long years (1800-1807) Munro perfected himself in the intricate work of making Settlements directly with the rayats in an extensive area. In an elaborate minute submitted to the Board of Revenue, he thus described the principles of the Rayatwari Settlement :

(1) the Settlement should be Rayatwari.

(2) every Rayat should be at liberty, at the end of every year, either to throw up a part of his land, or to occupy more, according to his circumstances.

(3) the amount of Settlement should increase or decrease annually according to the increase or decrease in the extent of land which the Rayat may have brought under cultivation.

(4) every Rayat, as long as he pays the rent of his land, should be considered as the complete owner of the soil, and should be at liberty to let it to a tenant, without any hesitation as to rent, and to sell it as he pleases.

(5) no remission to be made, on ordinary occasion, for bad crops or for other accidents.

(6) all unoccupied land should remain in the hands of Government.

(7) Patil, Curnums and other village servants

should remain, as heretofore, under the Collector."*

As the then existing assessments were very high, Munro also proposed that there should be a reduction of 25 p. c. in the survey-rate of assessment on all lands and an additional reduction of 8 p. c. (*i. e.* a total reduction of 33 p. c.) on all lands watered by wells, tanks &c. Thus reduced the assessment was to be declared permanent. But the Madras Board of Revenue did not approve this Settlement. They called it an Herculean task, or rather a visionary project, to fix a land rent—not on each province, district, or village, nor on each estate or farm, but on every separate field in the dominion. They further referred to the tendency of such a settlement 'to dissolve the ancient tie which united the republic of each Hindu village' and to the certainty of its practically abolishing private property in land. In the place of the Rayatwari, they adopted in those District where no Settlement had yet been made the *Village* or *Mahalwari* Settlement. "It differed from the Rayatwari chiefly in the assessment being fixed on the entire aggregate lands of the village, not on each distinct and separate field, in its being concluded with all the Rayats collectively, not with each individually; and in its giving up to the Rayats not only the revenues to be derivedfrom the arable land, but that also to be obtained by after exertion from the waste also; in fact, in leaving, in consideration of a contract to pay a given sum as public revenue, the entire internal administration of affairs to the Village Community. The object of this Settlement was to adapt the revenue administration to the ancient institutions and ancient usages of the

* Kaye: 219-20 (condensed.)

country, to which the Hindus are proverbially attached; to suit the system to the people and not to attempt to bend the people to the system."*

It will thus be seen that there were at this time three distinct revenue Systems in Madras: the Permanent Zamindari System in the Northern Sarkars; the Rayatwari System as made by Thomas Munro in Malabar, Canara, Coimbatore, Madura, Dindigul; and the Village System as made by the Board of Revenue at Madras in the Ceded Districts, in Nellore, Arcot, Palnand, Trichinopoly, Tinnevelly, and Tanjore.

"For a quarter of a century now under the Madras Government a series of experiments in land revenue had been going on. One system had been displaced to make way for another; each had been tried in turn, and it was alleged that in turn each had failed. They had all failed, more or less, because the lands had been overassessed."†

The final decision of the Court of Directors to adopt the Rayatwari Settlement was undoubtedly due to the influence exercised on them by Sir Thomas Munro who had gone to England in 1807. At the same time they realized how the land had suffered under over-assessment. When, therefore, Munro returned to India a second time as the Governor of Madras, he was authorized to adopt the Rayatwari Settlement and he made a general reduction of from 25 to 33 p. c. of the original assessment.

The extension of the Rayatwari Settlement in Madras involved the partial or complete wiping out of large classes of landlords who occupied positions corresponding to the Zamindars of Bengal. Thus the hereditary Rajas and Nair Chiefs of the Malabar

* Kaye: 222 † Kaye: 224.

District; the Zamindars--known as Pattackdars in the kingdom of Tanjore annexed by Lord Wellesley; and finally the class of Polygars in the Karnatak after its annexation in 1801, were swept aside. In the last case the Polygars—who were always a military and turbulent class—rose into insurrection but were ruthlessly put down, most of them were deprived of their land, and after 1803, Permanent Settlement was made with such of them as had survived the late harsh treatment. But in greater part of the Karnatic, Settlement was made directly with the cultivators.

Not only were the different orders of society reduced to the same level, the Settlement also gave the death-blow to the Village Communities. Though Sir Thomas Munro did all he could to foster them, organized the Panchayats, and revived their judicial powers, this ancient institution declined under the pressure of British Administration.

It should also be noted that an essential feature of the Rayatwari Settlement as conceived by Munro—namely, the permanency of assessment—was not accepted by the Court of Directors. The result was that the Madras Rayats steadily deteriorated after the departure of Munro; there were reports of the use of torture for the exaction of assessment; and a debate was raised in the House of Commons in 1854 in which John Bright gave a very harrowing picture of the condition of the Madras Rayats. A revision of the Settlement was, therefore, ordered in 1855 with a view to moderate the demand of the State, and safeguard the interests of the Rayats.

(24) III—RAYATWARI SETTLEMENT IN BOMBAY.

Elphinstone's Proposals.—Elphinstone was appointed Commissioner of the Deccan in 1818 to settle the

country of the Peshwa. His '*Report on the Territories conquered from the Peshwa*' is a historical document. He showed how Village Communities were to be found everywhere in the Deccan and described minutely their constitution and internal economy. He distinguished between two kinds of cultivators in the Deccan; those who were proprietors of the soil and those who were more or less tenants-at-will. Pointing to the large class of peasant-proprietors of the first kind known as *Mirasadars,* he said "They are proprietors of their estates, subject to the payment of a fixed land-tax to Government; their property is hereditary and saleable and they are never dispossessed while they pay their tax and even then they have for a long period (at least thirty years) the right of reclaiming their estates on paying the dues of Government. The other class is that of *Upari* cultivators. Elphinstone also referred to the valuable work of the Village Panchayats and urged that for the pacification and improvement of the country "our principal instrument must continue to be the Panchayat, and that must continue to be exempt from all new forms, interference, and regulation on our part."

When Elphinstone became Governor in 1819, Chaplain was appointed Commissioner and his report on the condition of the Deccan is also equally valuable. Elphinstone's idea was to preserve whatever was valuable and useful in the institutions of the Deccan. His proposal was to settle, after a survey, what each cultivator should pay to the State, and then to realize this from each village through the Patil. By this means he wished at once to preserve the Village Community as symbolized by the Patil and at the same time to safeguard the fiscal interests of the State. But

herein lay the weak spot of his proposal. If the share of each cultivator was to be determined by the Officers of Government, what was the necessity of keeping up the Patil and the Village Council thus deprived of their most important function of distributing the collective assessment among the cultivators? This weak point was too obvious to escape the notice of the Directors, and they rejected Elphinstone's proposals.

To the ruinous effect of excessive demand of the State testimony is borne by the report of Dr. Francis Buchanan who travelled extensively throughout India and by the Journal of Bishop Heber who made a tour in 1824-25-26.

Settlement Operations.—A preliminary Settlement Survey was commenced by Pringle (1824-28). It was based upon Government share being fixed at 55 per cent. of the net produce of the land. By the 'net produce' was meant the gross produce of a field *minus* the cost of cultivation. Though the principle was sound, it was not properly applied and a fresh survey was undertaken in 1835 by Goldsmidt and Lieutenant Wingate. It proceeded on the simple expedient of ascertaining the average character and depth of the soil, in each field, and classifying it accordingly. This principle based upon the geological examination of the soil though defective in theory, was applied with moderation by Wingate: The results of this Settlement are embodied in the Joint Report of 2nd May 1847 of Goldsmidt, Capt. Wingate and Capt. Davidson. It explained the principle thus: *firstly*, it was based upon the assessment of each field separately, and not of holdings or villages collectively; *secondly*, it granted long leases for thirty years instead of the short leases which had preceded; and *thirdly*, it

abandoned the basis of produce estimate and substituted the estimated value of lands (from the point of view of depth and colour of soil) as the basis of assessment. Lands were classified according to their depth (which determines the power of imbibing and retaining moisture) and also according to colour and texture. The land of first order was of fine uniform texture, varying in colour, from deep black to dark brown; of second order, of uniform but coarser texture and lighter in colour than the preceding order; third order of land of coarse, gravelly and loose friable texture and colour varying from light brown to grey. The resultant value of land was expressed in terms of annas per rupee.

The demand for the whole District was arbitrarily fixed 'from the past history of the District,' and this was distributed among the fields according to the relative values as determined above. The cultivator had no voice in determining the demand and he was entirely at the mercy of the petty survey officials.

The country suffered great hardships; the village communities declined; the landed aristocracy disappeared. The results were exactly similar to those that were observed in the case of Madras. A reduction of assessment was ordered and 'the revision' was going on at the time when the Company's administration came to a close.

(25) IV—THE FIRST LAND SETTLEMENTS IN THE NORTH-WEST PROVINCE.

The North-West Province was formed in four stages:

1775—Annexation of Benares and adjoining territory by Warren Hastings.

1801—The 'Ceded Districts' from the Nawab of

Oudh, acquired by Wellesley.

1803—The 'Conquered Districts'—the territory between the Ganges and the Jumna, after the Maratha War.

1856—Annexation of Oudh by Lord Dalhousie.

In 1795 Sir John Shore extended to Benares the Permanent Zamindari Settlement and also the Bengal Code.

Immediately after acquisition of the Ceded Districts Marquis Wellesley appointed a Commission of three civilians and his brother Henry Wellesley as the Lieutenant-Governor and President of the Board. Regarding the settlement of Land Revenue, it was proposed to have two triennial settlements to be followed by a settlement which after a further period of four years was to be declared *Permanent*. Thus the Government pledged itself, in a most solemn manner, and as a result of their own Regulations, to a Permanent Settlement after an aggregate period of ten years from the first Settlement of Henry Wellesley in the Ceded Districts. A similar pledge was also given to the land-holders in the Conquered Districts.

On account of the preliminary settlements which were always most exacting, and as a result of the ravages of the Maratha War a terrible famine visited the Ceded and Conquered Districts in 1804 and a Commission of R. W. Cox and Henry St. John Tucker was appointed to go into the question of the impending settlement, and this Commission was the first to sound a note of warning against a permanent settlement; though they had every disposition in favour of a permanent settlement they said "We submit to Your Lordship in Council our deliberate and unqualified

opinion that the measure, considered with relation to the Ceded and Conquered Provinces generally, is at this moment unseasonable, and that any premature attempt to introduce it must necessarily be attended with a material sacrifice of the public resources, and may, in particular cases, prove injurious to the parties themselves, whose prosperity, it is the chief object of the measure to secure upon a durable foundation."

Lord Minto, however, and the members of his Council felt otherwise and they pressed the necessity of a permanent settlement upon the Court of Directors. But the warning of the special Commission was not lost upon the Directors and they in their Despatch of 27th November 1811 wrote "the object of the present despatch is to caution you in the most pointed manner against pledging us to the extension of the Bengal fixed assessment to our newly acquired territories."

Protests were made by Lord Minto, and by Lord Hastings against the injustice of this Order. But the Directors were firm as adamant. In their final Despatch of August 1821, they repeated their orders of January 1819 and required the Government not only to abstain from making a permanent settlement but "from taking any measure which may raise the expectation that a settlement in perpetuity will hereafter be formed."

Meanwhile short settlements were made with proprietors and pseudo-proprietors and on the whole the old landlords suffered great hardships and losses. They stood "bewildered, confused, dismayed, scarcely knowing by what strange juggle they were suddenly, but almost imperceptibly being deprived of their rights."*

When the idea of a Permanent Settlement was

* Kage : 245.

abandoned in 1820 the plan of settling with the Village Communities whose existence was discovered by Holt-Mackenzie was adopted by Regulation VI of 1822. Before, however, taking up the subsequent history of the Land Settlement in the N.-W. Province, reference should be made here to a fundamental change in the land-revenue policy of the Indian Government begun by Lord William Bentinck under the influence of Lieut.-General John Briggs.

(26) V—LIEUT.-GENERAL JOHN BRIGGS.

From this brief account of the land settlements of Bengal, Madras, Bombay and the first land settlement in the N.-W. Province, it is evident that the theory underlying each was that the State was entitled to the '*rent*' of land. The notion of 'rent' resulting from cultivation had been developed by Ricardo. Lord Cornwallis, on the false analogy that the Bengal Zamindar held a position comparable to that of an English landlord applied the theory of 'rent' to Indian conditions. According to this theory, when population increases, the more inferior lands are brought under cultivation, and the owners of the superior lands get what is called 'rent' which is the difference between the costs of production of food grain on the inferior and superior lands. In practice, this theory justifies the appropriation by the State of that portion of Rent which is due to increase of population, and for which, therefore, the owner has not laboured. It is his 'unearned' increment of rent. This theory, during the first half of the nineteenth century held undisputed sway in England. It was accepted by John Stuart Mill, who, on account of his position in the India

Office as the Examiner of Correspondence, was able to exercise a decisive influence on the policy of Indian Land Revenue. He maintained that "if the land tax were limited to the rent only, then the revenue system of India would be the best in the world".

The most emphatic protest against this view of the Indian Land Revenue as rent was raised by Lieut.-General John Briggs—the well-known Translator of Ferishta, and also a great historian, and administrator. He had excellent opportunities of studying first hand this question of land revenue. His monumental work on "*The Present Land-Tax in India*" was published in 1830. Its main conclusions were: (1) that the integrity of private property in land had been recognized in every Village in India: (2) that Government had no right whatever to the land, but to a share in its produce, that is to a tax, which did not affect the proprietary rights in land; (3) that the Government share or tax was defined and limited both by Hindoo and Mahomedan Law and the Government had no title or precedents (except revolutionary ones) for taxing the people at discretion and no more right to claim the property in land and take its 'rent' than a tithe-owner has to claim another man's property because it pays him tithe; (4) that the Native institutions *e.g.* Village Communities themselves afforded a broad basis for the Administration, on which a durable Empire could be established".*

Summarising the defects of the theory on which the Company proceeded he said "Having assumed that the Government is the sole landlord, it considers the land to be the most profitable source of all revenue; it employs a host of public servants to

* John Dickinson : page 30.

superintend the cultivation, aad it professes to take all the profits. A land tax like that which now exists in India, professing to absorb the whole of the landlord's rent, was never known under any Government in Europe or Asia."

(27) VI—POLICY OF BENTINCK AND THOMASON

Brigg's work produced a strong impression upon Bentinck. He drew up a series of Regulations which were sent to General Briggs who was at that time Resident at Nagpur, and which were the foundation of the settlement in North-West Province. In his extensive tour in North India, Lord William Bentinck was struck with the fatal weakness of the Regulation of 1822 namely its exorbitant demand of 80 p. c. of the rental. He immediately reduced it to 67. p. c. He also tried to preserve the integrity of the Village Communities in whose behalf Sir Charles Metcalfe had recorded his eloquent Minute of 1830.

Principles of the Mahalwari Settlement.—The principles of Bentinck's settlement were embodied in Regulation IX of 1833. The task of applying this Regulation in practice fell upon Robert Mertins Bird who laboured from 1833 to 1843 and whose name is as much famous in the North-West Province as that of Munro is in Madras. Bird's settlement operations were completed by James Thomason who afterwards became the Lieut.-Governor of that province. His "*Directions for Settlment Officers*" was the first complete Code of Settlement compiled in India.

The first step of this settlement was "to introduce a scientific survey of the country, to mark carefully and to record the boundaries of every village, to register the separate possessions, rights, and privileges,

and responsibilites of those communities who hold their lands in severalty and of the several interests of those who hold their land in common "* The student will at once recognise here what have now become the familiar operations of a modern Revenue Settlement: a scientific survey of the tract; a cadastral or field-to-field survey with a view to ascertain soil, produce &c. and finally the preparation of a Record of Rights.

James Thomason thus explained the underlying principles of Revenue Settlement:—

"It is the true interest of the Government to limit the demand to what is just, so as to create a valuable property in the land and encourage its improvement. In order further to encourage this improvement, it is necessary to determine the persons to whom all the benefits belong, which arise out of the limitation of the demand on land. To perform these operations is to make a Settlement. Under ordinary circumstances, the prosperity of the country depends on this being justly and perfectly done.

There are evidently two distinct operations in the formation of a Settlement. The one is fiscal, the determination of the Government demand—the other is judicial, the formation of the Record of Rights.

It will be observed that there were in the N.-W. Province as many as three classes of persons whose rights in land had to be carefully defined and safeguarded: *the tenants* (of either peasant-proprietors, village-communities, or large land-owners); the *Village Communities;* and thirdly, the *Talukdars.* Thomason recognized the rights—though they were inferior, such as the right of occupancy, protection against enhancement of rent &c.—of the Rayats. As

* Kaye: p. 251.

for the Village Communities, he endeavoured to maintain them intact by making them jointly or collectively responsible for the payment of the Government demand. He thus explained the advantage of collective responsibility thrown upon the Village Community. "It greatly promotes Self-Government, and renders unnecessary that constant interference with the affairs of individual cultivators on the part of Government officers, which must otherwise exist. It saves them from much expense which would otherwise fall upon them, and it facilitates their union for many purposes of municipal economy, which could not otherwise be effected. The efforts of the prosperous and industrious members of a community will often be directed to stimulate the idle, to assist the unfortunate, and to give additional value to the labours of their thrifty brethren. Property being minutely divided, and each proprietor clinging with the greatest tenacity to his patrimony, it would be difficult to devise a Civil institution better calculated to add to the happiness and prosperity of the people."*

Finally as to the *Talukdars*. Originally majority of them were farmers or collectors of revenue. But they had succeeded in many cases in depriving the village community of its proprietary rights and reducing it to the position of his tenants. Under these circumstances the Talukdar was virtually the proprietor of the village. In each case Thomason endeavoured to preserve the *status quo*, recognizing the rights of the Community or the Talukdar according to the result of a judicial inquiry. The Talukdar was allowed a certain percentage (about 20%) of the revenue that was collected through him.

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* Life of Thomason by Temple, 152-153.

Such were the principles of the *Mahalwari Settlement* as established in the N.-W. Provinces by Bird and Thomason.

Bird had intended to fix the assessment for ever in those parts of the province where cultivation had reached the maximum limit. But this intention was disregarded. Again, the Village Patwari—a paid agent—was invested with powers that ought to have belonged to the Village Community; the inevitable result of these two measures was the gradual impoverishment of the Rayats and the disruption of the Village Community. As has been well said "The decidedly levelling character calculated so to flatten the whole surface of society as eventually to leave little of distinguishable eminence between the Ruling Power and the cultivators of the soil" was not checked.

The completed settlement was approved of by the Directors in their Despatch of August 13, 1851. But it was soon found that the demand of State fixed at $\frac{2}{3}$ of the net assets (*i. e.* the surplus which the estate may yield, after deducing the expenses of cultivation including the profits of stock and wages of labour) was excessive, and therefore, when the resettlement of the province commenced with the Shaharanpur District, the State demand was revised by fixing it at 50 per cent of the assets—by the famous Shaharanpur Rule.

In Oudh which was annexed by Lord Dalhousie, there was a powerful class of Talukdars. Settlements. were made with them rather than with their tenants. Lord Canning after the pacification of the Mutiny recognized the proprietary rights of the Talukdars and this virtually established the Talukdari Settlement in Oudh.

(28) VII—THE VILLAGE SETTLEMENT IN THE PUNJAB

History of the Settlement.—A part of the Punjab was annexed as the result of the First and the whole of it as a result of the Second Sikh War (1849), Under the rule of Ranjit Singh, the land tax was theoretically one half of the produce of land; it was collected in kind by powerful and military Governors in the more distant and unruly parts of his empire, and by Agents in the more peaceful or settled districts. The system rested on the acknowledgment of the proprietary right in the land and on the existence of village communities.

At the suggestion of Henry Lawrence the produce tax was converted into money. After the annexation, a Board was appointed with Henry Lawrence as President and John Lawrence as a Member. But as the policy and temperament of the two brothers could not agree, both resigned and Lord Dalhousie, who fell in with the Imperial ideas and narrow views of John Lawrence, made him the President. Under his direction the Village Communities were practically ignored. The Government share was reduced from $\frac{1}{3}$ to $\frac{1}{4}$ and then to $\frac{1}{6}$ of the gross produce of land or to one half of the net rental.

Mill's Description of the Settlement.—The general nature of this settlement has been well described by John Stuart Mill in a paper submitted to Parliament in 1857.

"In the Punjab one and the same man is usually the absolute proprietor and generally the sole cultivator, though he may occasionally lease out a few acres to tenants. He is saddled with no rent. But these men, well maintaining their individuality, do yet belong to the Village Communities. A village is not

inhabited by a certain number of Rayats each unconnected with the other, but by a number of persons of common desent, forming one large cousinhood, having their own headman and accustomed to joint action and mutual support.

The British Government has from the first decided on levying the tax by money payments assessed for a number of years. The peasant proprietors compound with the State for a fixed period, such assessment and compounding being technically called Settlement. But the Proprietors do not individually engage with the Government, but by villages. The brotherhood, through its headmen or representatives, undertakes to pay so much for so many years; and then, having done this, they divide the amount among themselves assigning to each man his quota. Primarily each man cultivates and pays for himself but ultimately he is responsible for its coparceners and they for him and they are bound together by a joint liability. The Punjab system, therefore, is not Rayatwari, nor Zamindari, but the *Village System.*

(29) VIII—MALGUZARI SETTLEMENT IN THE CENTRAL PROVINCES

The C. P. were formed at different times. The Raja of Nagpur ceded the Sagar and Narbada Territories in 1817 after the Third Maratha War. In 1849 Lord Dalhousie annexed the State of Sambalpur as the Raja died without an heir; and in 1853 the whole of the territories of the Raja of Nagpur was annexed as the claims of the adopted son were set aside. All the tracts were placed under the Chief Commissioner of Central Provinces in 1861 by Lord Canning.

The Sagar and Narbada Territory suffered so much under excessive and frequent settlements that in 1834 Robert Mertins Bird was appointed to make a special report and as a result of this a twenty years' settlement was made in that year. Short term settlements were made in Nagpur and Sambalpur after their acquisition, but it was not till 1861 that a proper settlement was made. Sir Richard Temple—who had been an assistant of Thomason and Lawrence—was in favour of a Permanent Settlement, which, he argued, was good both for the subjects and the State. The latter would be compensated for the loss of its prospective land revenue by the gradual increase of other branches of revenue. These branches entirely depended upon the wealth of the people and nothing contributed so much to augment that wealth as a Permanent Settlement.

But while this question was being debated, a new settlement was begun in 1863 of which the chief feature was the recognition of the rights of *Malguzars* or Revenue Payers. They were also given the right of transferring or dividing the right; and the half rental rule was applied to determine the demand of Government. In the latter case, however, the Settlement officers put a narrow interpretation. They based their demand not on the *actual* rental but on *prospective* rental and this hit hard both the proprietors and the tenants. The settlement was to last for thirty years.

(30) IX—SUMMARY AND CONCLUSION

We have thus passed under rapid review the principal land-settlements made during the regime of the East India Company—namely, those in Bengal, Madras, Bombay, North-West Provinces, the Punjab and (partly) the Central Provinces. I shall give, in a

subsquent chapter, the development of the Land-Revenue Policy under the Crown and the technical details of its administration. But the foregoing account shows that the main lineaments of that policy were fixed in the pre-Mutiny period. When the Charter was renewed in 1853 special attention was paid to this question. The Directors were against the Permanent Settlement but they admitted that the Indian Land Revenue was a *tax* and not a *rent*. Thus in their famous Despatch of December 17, 1856 they said: "The right of the Government is not a *Rent* which consists of all the surplus produce after paying the cost of cultivation and the profits of agricultural stock, but a land-revenue only, which ought, if possible to be so lightly assessed as to leave a surplus or *Rent* to the occupier whether he, in fact, let the land to others, or retain it in his own hands."

The Half-Rental Rule and the 30 years Settlement were also accepted, though, in practice, there were wide and frequent departures from it, particularly in the sparsely peopled parts of India *e.g.*, the Punjab, the Central Provinces &c.

CHAPTER VIII

JUDICIAL REFORMS OF CORNWALLIS AND BENTINCK AND THE CHARTER ACT OF 1833

(31) INTRODUCTORY

We considered in the first Chapter how, thanks mainly to the resourcefulness and energy of Clive, British power was firmly established in Madras as against the French, and in Bengal as against the Nawab of that Province. The misrule that ensued in Bengal attracted the attention of Parliament which by the two Acts described in the second Chapter, established control over the affairs of the Company. The first Parliamentary Governor-General to be sent to India was Lord Cornwallis—a nobleman, statesman, and soldier and, therefore, peculiarly qualified to deal with the very pressing questions of revenue settlement and judicial administration in Bengal. Some account has already been given of his Permanent Revenue Settlement. Here we shall deal with his Judicial Reforms.

(32) II—JUDICIAL REFORMS OF CORNWALLIS

Reference has already been made to the work of Warren Hastings in this connection. It was continued by Lord Cornwallis. It should be remembered in the first place that the 'District' had been made a unit of administration under the 'Collector' in 1786. But the revenue and judicial work had been combined in the

hands of the Collector. The first reform of Cornwallis consisted in separating these two functions, all revenue matters being placed in the hands of the Collector, and all judicial (so far as they were civil) matters being placed in the hands of 'District Judges' who were now appointed in each District. There were also established in large towns "*Munsif's Courts*" and "*Ameen's Courts*" (to try cases of the value of Rs. 50 and under) and "*Registrar's Courts*" (for cases not exceeding Rs 200 in value. Appeals against the Munsiff's and Registrar's Courts lay to the District Court mentioned above. The District Court consisted of the Judge, a *Kazi* and a *Pandit*. Appeals from the District Court lay to the *Provincial Courts*, of which four were established at Calcutta, Patna, Moorshedabad, and Dacca respectively. In each there were three European Judges, a Registrar, a Kazi and a Pandit. In all cases of less than Rs. 1000, their decisions were final. In more valuable cases an appeal lay to the 'Sudder Dewani Adalat' at Calcutta presided over by the Governor-General and Council.

Criminal Courts—The lowest Criminal Courts were those of the Magistrates' Courts held by the various Justices of the Peace in the District (the District Judges, and Registrars, and *Ameens* being all Justices of the Peace). These Courts could award sentences up to 15 days imprisonment or fine up to Rs. 200.' Above these Courts were the Courts of Circuit, presided over by the Judges of the Provincial Courts (mentioned above). They were four in number and went from District to District. Their jurisdiction was original in all cases sent up to them by the Magistrates' Courts and appellate in decisions of the same Courts. Above the Courts of Circuit was the Sudder Nizamat

Adalat presided over by the Governor-General and Council.

Police—The police arrangements were altered at the same time. The private establishments of the Zamindars were abolished, and a connected Police service was established, having a *Daroga* in charge of each District.

Thus the salient features of the reforms of Cornwallis were (*a*) a complete separation of revenue from judicial administration; and (*b*) the provision of a regular system of appeals from lower to higher Courts. Cornwallis, however, was not satisfied with a mere reform in the machinery of administration. He had seen how entirely the Native inhabitants were exposed to the unchecked jurisdiction of the officers of the Company. He was eager to give to the helpless inhabitants some means of redress against the officers. He made all the officers amenable to the Courts of Law. "We have resolved, likewise, that the Collectors of revenue and their officers, and indeed all the officers of the Government, shall be amenable to the Courts for acts done in their official capacities, and that Government itself, in cases in which it may be a party with its subjects in matters of property, shall submit its rights to be tried in the Courts under existing laws and Regulations."

Cornwallis also turned his attention to systematic codification of the Regulations. As has been already explained the power of passing such Regulations was conferred on the Governor-General and Council by the Regulating Act. But they had not been systematically collected or arranged: some were not even printed. Cornwallis ordered that all such Regulations should be numbered, arranged, printed, and circulated for the guidance of all concerned.

The chief defect in this work of Cornwallis was the entire exclusion of Indians from a share in the administration of their own country. The lamentable results of this policy balked his reforms of the success to which they were otherwise fully entitled.

Half a century of territorial expansion had to intervene before the work of Cornwallis was resumed by Lord William Bentinck.

(33) THE REFORMS OF LORD WILLIAM BENTINCK.

The judicial measures of Lord Cornwallis brought to light in course of time the evils that were inherent in them. "That justice should be cheap and the judgment seat accessible are two of the first essentials of a pure judicial system and Cornwallis endeavoured to secure both the accessibility and cheapness of the Courts." But this only increased litigation; the English Judges also, in their eagerness to adhere to the letter of the Regulations, were very slow in deciding cases, and thus there was a frightful accumulation of judicial work. The remedy adopted to mitigate this evil was worse than the disease. Court fees were imposed to check litigation. Thus justice became again dear.

The judicial system of Cornwallis was in operation for nearly 40 years before it was substantially improved by Lord William Bentinck. "Of all the Governors who succeeded Cornwallis he most resembled that benevolent and upright statesman. As Cornwallis was a reformer, so was Bentinck. He had abundant time to devote himself to measures of domestic improvement, for no miserable war was sitting like a curse upon his arm and paralysing his administrative energies. *

* Kaye : 345.

The first reform of Bentinck was the abolition of the Provincial Courts which were also Courts of Circuit. They had become "the resting places for those members of the service who were deemed unfit for higher responsibilities." The dilatoriness of these courts as courts of justice was particularly notorious and inflicted great hardships upon the accused and the witnesses.

But the next measure of Bentinck was of a retrograde character. Cornwallis had separated the Judicial from the Revenue functions. Bentinck now transferred the duties of the Provincial Courts (*i.e.* of holding sessions for criminal trials) to the District Judges. But as Justices of the Peace, the Judges were also Magistrates. Hence their Magisterial functions were again vested in the Collector. This arrangement proved most unsatisfactory. As Kaye says "the office of the thief-catcher was postponed to that of the financier and the department of Police was the worst regulated of any branch of administration."*

As the conquests in North India had added considerably to the Presidency of Bengal, Bentinck established a Court of Appeal for the North-West Provinces at Allahabad.

But the greatest reform of Bentinck lay in the introduction of Indians to the more important places in the Judicial Administration. It was complained that those who were too old or unfit for revenue work were made judges. They were ignorant of the language of the people and of their legal and social Institutions. They were also too much given to 'artificial technicalities of law.' On account of these causes judicial administration was fast falling

* Kaye : page 348.

into a chaos and the desirability of entrusting a substantial part of it to Indian Agency to clear off the heavy arrears, if for no other reason, had been repeatedly admitted by the Court of Directors. But no step had been taken in that direction. The powers of the Sadar Ameens and the Munsiffs which were the only two classes of service open to Indians—were very limited. Bentinck established in 1831 a higher grade of Judicial Officer known as "Principal Sadar Ameens" who were authorised to try cases involving property of any amount. An appeal lay from them to the European Judges.

The reform of the Criminal Branch of Judicial administration was not so easy. The only steps in that direction were (1) the appointment of uncovenanted servants as Deputy Magistrates (in 1843) in any district, at the discretion of the Bengal and Agra Governments, and armed with full Magisterial powers; and (2) improvement in the pay and status of the 'Daroga' to enable this officer to discharge his Police functions properly.

Criticism—The reforms of Cornwallis and Bentinck were no doubt a great improvement upon the old state of things. But they could not easily fill the void caused by the destruction of the village communities in India. It is well-known how with the help of the Patil (headman) and Kulkarni (record-keeper), the communities were able to enjoy internal peace, and detect crime. Sympathetic administrators like Elphinstone and Malcolm attributed the contentment and security of the people—in spite of the mis-government of the Central Authority—to their admirable system of village communities. Malcolm was particularly struck with the persistence with which the community

adhered to its village site and organization whenever they were threatened or destroyed by political revolutions or foreign invasions. But these communities could not survive under the pressure of British administration, and the result was, that during the long time that new institutions were rising to take the place of the old, (always a slow process), the country was infested with a recrudescence of crime and lawlessness of which no idea can be formed at this distance of time.

(34) IV—THE CHARTER ACT OF 1833

The Charter Act of 1833—The state of laws that obtained at the time of Lord William Bentinck was hardly better than that of judicial administration described in the last section. It was here, however, that a very important change was brought about by the Charter Act of 1833. Lord Morley characterised this Act as " Certainly the most extensive measure of Indian Government between Mr. Pitt's famous Act of 1784 and Queen Victoria's assumption of the Government of India."* To appreciate this high praise we must recall the changed circumstances—both in India and in England—under which that measure was enacted. The wars of Wellesley and Hastings had added enormously to the territories under British Rule, and to the difficulties of administration in India. In England, on account of reform of Parliament, liberal principles were in the ascendant; (1) there was a clamour for freedom of trade with India; (2) for the unrestricted immigration of Europeans into India; (3) for a reform of the laws of India; (4) and for an improvement in the state of Education prevailing in India.

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* Speech (Keith Volume II, 95).

In response to the first demand the last traces of the commercial monopoly of the East India Company were abolished, and the Company thenceforward became a purely political body.

To satisfy the second demand all restrictions upon the immigration of Europeans into India were removed; they could now settle in any part of India that was in British possession, without the requirement of a license.

Reform in Indian Legislation.—The unrestricted ingress into India of Englishmen rendered the reform of the Indian Law almost imperative. Lord Macaulay had well pointed out the danger of exposing the Indian population to the tyranny and insolence of the conquering race. As he put it "India has suffered enough already from the distinctions of castes and from the deeply rooted prejudices which those distinctions have engendered. God forbid that we should inflict on her the curse of a new caste, that we should send her a new breed of Brahmins, authorized to treat all the native population as Pariahs." *

The dangers of the situation were increased by the very insufficient power of law-making that was enjoyed by the Governor-General in Council. Hitherto his Regulations had been made with special reference to the Indian population and to the servants of the Company. Nor could the Regulations have any jurisdiction over the Supreme Court which owed its origin to a Royal Charter. The first thing to do, therefore, was to increase and extend the legislative power of the Governor-General in Council so as to reach European Settlers. He was accordingly, empowered "to make laws and regulations for all persons (British, Foreigners, or Natives), and for all

* Speech July 1833 (Keith).

Courts (*i.e.*, the Courts of the Company and the Supreme Court)." Such laws were not required to be registered in the Supreme Court and forthwith became Acts of the Governor-General in Council.

A reform of the machinery for the making of laws was required on another ground also—namely the chaotic state into which laws and Regulations had fallen about 1833.

At the time of considering the judicial reforms of Warren Hastings reference was made to the triumph of Hastings in his struggle against the Supreme Court as to the laws that were to be applied to the Indian subjects of the East India Company. "The Act of 1781 laid down that in suits between Natives within the jurisdiction of the Supreme Court regard should be paid to the personal law of the party whether Hindu or Mahomedan, and where the parties were under different personal laws, to that of the defendant. It was likewise prescribed that no act committed in consequence of a rule or law of caste in Native families should be held to be a crime, although it might not be justifiable under the laws of England." *

But though it now became possible for the personal law of the Hindus and Mahomedans to be developed, the principle was neither universal nor satisfactory; (*a*) thus, there were many communities, numerically small but socially and politically of increasing importance, *e.g.*, the Parsees, the Jains, the Portuguese, the Armenians etc., which were outside the pale of the Native Law; (*b*) again there were large areas of modern life for which neither the Hindu nor the Mahomedan law could have made any provision; (*c*) further, as the

* Chailley: 350.

Mahomedan Law was applied in criminal trials, it inflicted great hardships upon the non-Mahomedans; (*d*) nor were some of the punishments prescribed by the Native Law *e. g.* mutilation, in consonance with modern views.

A practical difficulty in the application of the personal law arose from two further causes; (1) the Mahomedan Law was contained in the Koran and other texts; the Hindu Law in the Shastras and Commentaries thereon. It was not easy to interpret the texts or reconcile conflicting authorities. (2) In actual practice, the laws—as contained in the texts—were modified by custom.

The arduous task of adapting the laws and customs of the population to changed circumstances was sought to be accomplished by the decisions of the judicial Tribunals and by Regulations passed by the Executive Authority. But, as Lord Macaulay pointed out, there were different tribunals, independent of each other, which administered the law. There were Courts established by Acts of Parliament (*e.g.* the Mayor's Court), by Royal Charters (the Supreme Court,) and Courts of the Company (the Sadar Courts). Each put its own interpretation and even the Judges of the same Court did not always agree.

The power of making Regulations was given to the Governor-General and Council of Bengal, and to the Provincial Governors by the Acts of 1773 and 1781. The Regulations were of the nature of official instructions and explanations rather than of legislative enactments. Thus they embodied the Land Revenue Settlements and the judicial administration. Lord Cornwallis took great pains to systematize the Regulations. "He gave them permanent expression and substantial shape, for the guidance alike of those

who were to administer and those who were to appeal to them. The Regulations were to be numbered, arranged, printed and circulated. They were to have a home in every Government Office and to be transmitted to the Authorities in England".* Lord Cornwallis arranged these Regulations in 1793 in the Bengal Code; similar collections of the revised Regulations were made for Bombay by Elphinstone, and for Madras by Sir Thomas Munro.

But these Regulations had defects of their own: they were the work of practical administrators and not of skilled draftsmen, they were voluminous, and obscure, and contained a great deal of matter that was obsolete or repealed; above all, as they emanated from different sources, they often contained conflicting instructions.

On the top of the Regulations stood the Acts of Parliament that were made applicable to India. (*a*) Thus the Charter of 1726 given by George I introduced into India the English Statue Law as it stood in that year. (*b*) English Statue Law passed after 1726 was applicable in India if it was expressly extended to any part thereof.

It would be clear from this brief survey of the state of laws and judicial tribunals in British India, that the time had come for great reform. Lord Macaulay suggested 'codification of the laws' as the only remedy to remove uncertainty, and recommended the appointment of a Commission for that purpose. "The work of digesting a vast and artificial system of unwritten jurisprudence is far more easily performed and far better performed by few minds than by many, by Government like that of Prussia or Denmark, than

* Kaye: 339.

by a Government like that of England. A quiet knot of two or three veteran jurists is an infinitely better machinery for such a purpose than a large popular assembly divided, as such assemblies almost always are, into adverse factions. This seems to be, therefore, precisely that point of time at which the advantage of a complete written Code of laws may most easily be conferred on India. It is a work, which cannot well be performed in an age of barbarism, which cannot without great difficulty be performed in an age of freedom. It is a work which especially belongs to a Government like that of India—to an enlightened and paternal despotism." The great principles of codification were three, as put forward by Macaulay: *uniformity* where you can have it, *diversity* where you must have it, but in all cases, *certainty*.

The provisions of the Charter Act of 1833 so far as they bore upon the machinery for the making of Laws for India were three: it deprived the Governors and Councils of Bombay and Madras of their independent powers of law-making: it vested this power in the Governor-General in Council of India; and it added to the Council, for the satisfactory work of codification, a fourth member (called the Legal Member) who was to be an English Barrister.

The Charter Act also provided for the appointment of a Law Commission for codification, and Lord Macaulay the first Law Member under the new Act, was appointed the President of this Commission.

So far, however, as actual results were concerned, the Law Commission was a failure. Its activity languished after the departure of Lord Macaulay. The draft of the Indian Penal Code made by Macaulay was no doubt a solid achievement; but though begun

in 1835 it did not become an Act for nearly 20 years. The Commission, no doubt, collected a vast amount of information, but did not proceed beyond that; and it cost India about 17 lacs of rupees.

The provisions of the Act of 1833 with respect to Education and the employment of Indians in the Public Services will be taken up in the next Chapter.

CHAPTER IX

SOME GREAT ADMINISTRATORS AND THE ACT OF 1833 (CONCLUDED.)

(35) I—INTRODUCTORY

In this Chapter attention will be drawn to the individual reforms of some of the great administrators under the E. I. Company. I will not say here anything about Clive or Warren Hastings or Lord Cornwallis. Lord Wellesley—is known more as a conqueror than as a reformer, and nothing will be said about him also. It is the work of reformers like Bentinck, Munro, and Elphinstone that must engage our special attention in this Chapter. For, this work was inspired by the same Liberal movement which placed on the Statute Book the Charter Act of 1833.

(36) II—THE REFORMING MOVEMENT

As Prof. Ramsay Muir points out * the Reforming movement in India associated with the name of Lord William Bentinck was in part stimulated by the Liberal movement that set in Europe after the overthrow of Napoleon. This new spirit showed itself in two ways. On the one hand there was a far more respectful study and appreciation of Indian law and custom than had been shown since the days of Warren Hastings. Metcalfe, Elphinstone, Munro and Malcolm—each one of this great quadrilateral of administrators—was an admirer of the village

* Ramsay Muir : 282—283.

communities of India. The primary aim of these great men was to maintain and strengthen whatever was good in the self-governing institutions of the people. Along with this eagerness to understand and preserve what was old, there was an equally strong anxiety to introduce the civilization of the West into India.

As examples of the first tendency a few extracts from different authorities describing the village communities may be given here.

Elphinstone in his report had drawn attention to these village communities. "In whatever point of view we examine the Native Government in the Deccan, the first or most important feature is the division into villages or townships. These communities contain in miniature all the materials of a state within themselves, and are almost sufficient to protect their members, if all other Governments are withdrawn. Though probably not compatible with a very good form of Government, they are an excellent remedy for the imperfections of a bad one; they prevent the bad effects of its negligence and weakness, and even present some barrier against its tyranny and rapacity.

Each village has a portion of ground attached to it which is committed to the management of its inhabitants. The boundaries are carefully marked and jealously guarded. They are divided into fields, the limits of which are exactly known; each field has a name and is kept distinct, even when the cultivation of it is long abandoned. The villagers are entirely cultivators of the ground with the addition of the few traders and artisans that are required to supply their wants. The head of each village is the Patil who has under him an assistant called the Chaugula and a clerk called Kulkarni. There are besides 12 Village officers,

well-known by the name of Bara Baloti......the Patil is head of the Police and of the Administration of Justice in his village, but he need only be mentioned here as an officer of revenue. In that capacity he performs on a small scale what a Mamlatdar or Collector does on a large; he allots the land to such cultivators as have no landed property of their own and fixes the rent which each has to pay; he collects the revenue for Government from all the rayats; conducts all its arrangements with them, and exerts himself to promote the cultivation and the prosperity of the village. Though originally the agent of the Government, he is now regarded as equally the representative of the Rayat and is not less useful in executing the orders of the Government than in asserting the rights or at least in making known the wrongs of the people."

Sir Charles Metcalfe—in his famous Minute of 1830 also wrote:—The village communities are little Republics, having nearly everything that they want within themselves and almost independent of any foreign relations...The union of the village communities —each one forming a separate little state by itself,— has, I conceive, contributed more than any other cause to the preservation of the people of India through all revolutions and changes which they have suffered and it is in a high degree conducive to their happiness and to the enjoyment of a great portion of freedom and indepehdence. I wish, therefore, that the village constitutions may never be disturbed and I dread everything that has a tendency to break them up. I am fearful that a revenue-settlement with each individual rayat, instead of one with the village community through their representatives, the head men, might have such a tendency. For this reason,

and for this only, I do not desire to see the Rayatwari Settlement generally introduced into the Western Provinces."

(37) III—Reforms of Bentinck

Going back to the group of Reformers who endeavoured to introduce Western ideals into India, one must note that at their head stood Lord William Bentinck. "He was nearer to the *beau ideal* of what a Governor-General ought to be than any man that held that office. There have been several good men and several great men in the same position, but there has been none like him. A paramount sense of duty to the inhabitants of India and a desire to do them good inspired all his words and actions."*

He had received definite instructions from the home authorities to effect retrenchment in expenditure which had grown enormously on account of the wars of Lord Hastings—and with the help of two specially appointed Committees he made large economies in Civil and Military Departments. He reformed the currency, and rupees with the head of the British Sovereign were struck and made equivalent to a tenth part of the pound. He also overhauled the Opium Department.

His Administrative Reforms took the shape of improving the judicial administration—(to which reference has already been made); he allowed the vernaculars to be used in the proceedings of the Courts, in place of the Persian; above all he introduced Indians to important places. "He clearly saw in this far-sighted view of Policy that through the path of gradual enlistment of the intellectual ability and

* Torrens : 303.

ambition of the Natives in the permanent service of their own land, lay our only reasonable or definite prospect of retaining an ascendency therein."*

His Social Reforms consisted in the abolition of *Sati* and the suppression of *Thaggi*. He was disuaded from interfering with the customs of the people by Oriental scholars like H. H. Wilson. But he persevered and abolished the evils.

We have considered in another place his Land Revenue, Policy and his Educational Policy will be considered presently.

On the whole we may concur with the tribute paid to him by his colleague in the Council, Sir Charles Trevelyan: "To Lord William Bentinck belongs the great praise of having placed our dominion in India on its proper foundation in the recognition of the great principle that India is to be governed for the benefit of the Indians, and that the advantages which we derive from it should only be such as are incidental to and inferential from that course of proceeding."

(38) IV—Work of Sir Thomas Munro

Munro's views on Indian Administration are contained in his well-known Minute of 31st December, 1824 which Mr. R. C. Dutt described as "perhaps the most thoughtful and statesmanlike Minute ever recorded in India since the time of Cornwallis."† Some of those views may be summarised here.

(1) *On the Employment of Indians in Administrative Work*—Munro deplored that no confidence was placed in the Natives and that they were excluded from all offices; he was convinced that mere spread of education would not raise the people; "our books alone will do

* Torrens : 303. † Dutt (Early British Rule) 160.

little or nothing; dry, simple literature will never improve the character of a nation. To produce this effect, it must open the road to wealth, honour, and public employment. Without the prospect of such a reward, no attainments in science will ever raise the character of the people." Munro also held that the employment of Indians was also desirable on the ground of getting accurate information from them regarding their laws and customs and for the making of new laws for them.

(2) *On the Advantages and Disadvantages of British Rule.*—Though British Rule has secured India from the calamities of foreign war and internal commotion, it has also brought about the exclusion of the people from any share in legislation or administration; this necessarily leads to a lowering of the character of the people.

"One of the greatest disadvantages of our Government in India is its tendency to lower or destroy the higher ranks of society, to bring them all too much to one level and by depriving them of their former weight and influence to render them less useful instruments in the internal administration of the country."

(3) *On the Future of India.*—"There is one great question to which we should look in all our arrangements; what is to be their final result on the character of the people? Is it to be raised or is it to be lowered? Are we to be satisfied with merely securing our power and protecting the inhabitants, leaving them to sink gradually in character lower than at present or are we to endeavour to raise their character and render them worthy of filling higher situations in the management of their country and devising plans for its improvement? It ought undoubtedly to be our aim to raise the minds of the

Natives and to take care whenever our connection with India might cease, it did not appear that the only fruit of our dominion there, had been to leave the people more abject and less able to govern themselves than when we found them...Various measures might be suggested which might all probably be more or less useful (in improving their character): but no one appears to me so well calculated to ensure success, as that of endeavouring to give them higher opinion of themselves by placing more confidence in them, by placing them in important situations, and perhaps by rendering them eligible to almost every office under the Government...When we reflect how much character of Nations has always been improved by that of Governments and that some, once the most cultivated have sunk into barbarism, while others, formerly the rudest have attained the highest point of civilization, we shall see no reason to doubt that, if we pursue steadily the proper measures, we shall in time so far improve the character of our Indian subjects as to enable them to govern and to protect themselves."

N.B.:—For his view on Subsidiary Alliances, and on *Judicial and Land Revenue Administration see elsewhere.*

(39) IV—WORK OF ELPHINSTONE

Elphinstone came to India as a young lad of 17 in 1796 and served in the capacity of a Private Secretary under Arthur Wellesley—the future Duke of Wellington. He was Resident at Nagpur from 1804 to 1808 and there he obtained intimate knowledge of Maratha affairs. A Mission to Kabul enabled him to write a history of Afghanistan and on his return in 1811 he was appointed Resident at Poona and was

witness of the last stages of the Peshwa's rule. After the over-throw of that rule he was appointed Commissioner of the Deccan in January 1818 and Governor of Bombay in 1819.

His fame as a liberal Administrator rests mainly on his work in three directions.* His first endeavour was to codify the Law. He framed the Bombay Code consisting of 27 Regulations and he also had the idea of preparing an exhaustive digest of laws and customs of the different castes of the Hindus. His second object was to confer on the people of India as large a share in the work of administration as possible. In this respect the maxim of Elphinstone was this: "our object ought to be to place ourselves in the same relation to the Natives as the Tartars are to the Chinese: retaining the Government and military power, but gradually relinquishing all share in civil administration, except that degree of control which is necessary to give the whole an impulse and direction." His third and last purpose was to spread a sound system of education, about which something will be said presently.

(40) V—OTHER ADMINISTRATORS

It is impossible to mention here all the great names of this period or to specify their work, but the student of this period of Indian administration is easily convinced that at no time—either before or after this period—were there so many able servants of the Company labouring for the good of the people. Sir John Shore, John Sullivan, Sir John Malcolm, Thomason, R. M. Bird, Colvin, Cotton, Briggs, Todd, Grant Duff are famous names. As R. C. Dutt observes

* Dutt—India under Early British Rule.

"Never did Englishmen of any generation show higher literary culture and talent in India, never did they show a truer sympathy with the people."*

(41) VI—OTHER PROVISIONS OF THE CHARTER ACT

General:—The work and views of Bentinck, Elphinstone, and Munro that have just been examined will enable the student to form a correct estimate of the remaining provisions of the Charter Act of 1833 which marks an equally important change in the attitude of Parliament towards the people of India. Under the stress of wars and of territorial aggrandisement no attention had hitherto been paid to the condition of the people. The economic drain which increased in volume and ramifications, with every increase in the territories of the Company was, if possible, the least evil of the Rule of the Company. Greater harm was done by the complete exclusion of Indians from every post of honour and emolument in the public service of the land. This exclusion was all the more galling when contrasted with the memory of the highest positions—in Civil and Military Departments which they held—and often with distinction—in those Native States which were but recently subverted. Above all nothing had as yet been done to introduce the people of India to that Western Civilization whose superiority in the science of government, in the method of war, in administration, in patriotism, in organization, in discipline, in culture, in education, in science, in art—in every thing, in fact, which makes for success in the great struggle for existence which is going on around us as much among individuals as among nations—whose superiority—I

* R. C. Dutt : 428.

say—was being demonstrated to them with a rapidity and thoroughness that staggered them.

Both with respect to Western Education and the Employment of Indians in Public Service, the Charter Act of 1833 laid down important principles.

(42) VII—EDUCATION

Little attention was paid to the subject of Education before the days of Lord William Bentinck. It is true that the Charter Act of 1833 had allowed the ingress, under restrictions, into India of Missionaries that the latter may introduce useful knowledge and Christianity among the native population; the Act further required one lac of rupees to be set aside every year for the revival and improvement of literature and the encouragement of learned natives of India, and for the introduction and promotion of a knowledge of the Sciences among them.

But in spite of this Parliamentary enactment, and of what had been done by Warren Hastings for Oriental learning many years before that enactment, little progress was made till 1823. In that year 'a Committee of Public Instruction' was formed to utilise the Fund for the promotion of Education. But this Committee did little more than print classical books and give stipends to scholars in the Oriental Colleges at Benares and Calcutta. In fact about this time a great controversy was going as to what system of eductaion should be encouraged by Government—the Western or the Oriental. At last the cause of Western Education triumphed, thanks to the labours of the Missionaries, the efforts made by Reformers like Ram Mohan Roy, and to the famous Minute of Lord Macaulay. When he came out to India as the First

Law Member under the Act of 1833 he was appointed President of the Committee of Public Instruction. The Members of this Committee were divided on the question of Western *versus* Oriental Education. Macaulay's Minute which made a deep impression upon Lord William Bentinck decided this controversy.

It should be noted, however, that Macaulay's attack was directed against Classical (Sanskrit and Persian) learning. He was entirely for improving the Vernaculars ; but as they, in their backward state could not be a fit medium for conveying Western knowledge, the English language was to be used for that purpose. A number of causes conspired to make the spread of Western learning very rapid. (1) Increased activity of the Missionaries, who established schools and colleges as much for the spread of knowledge as for proselytism. (2) Bentinck displaced the Persian language from the Law Courts and English was substituted. (3) Freedom of Press was established in 1835. (4) Lord Hardinge made the attainment of Western Education a qualification for entrance into Government Service.

While the Governor-General in Council was labouring to spread Western Education, administrators like Elphinstone, Munro, and Thomason were trying to encourage the spread of knowledge through the Vernaculars. Elphinstone found the newly acquired Province of Bombay very backward in education and, therefore, formed "A Society for the Promotion of the Education of the Poor" in 1820 and for 12 years this Society printed books in the Vernacular and established schools for the spread of Primary Education. His project to found a College for the spread of higher education was opposed in his

Council and did not receive the sanction of the Court of Directors. But though no English School was started in Bombay during Elphinstone's time, one was opened in 1828—the year after his departure, and the great Elphinstone Institution (now the College) was opened in 1842.

Munro derived the inspiration to spread knowledge from Elphinstone. His plan was to establish normal schools for the preparation of teachers who were later on to be placed in the districts for the diffusion of knowledge through books specially designed for the purpose.

What was done for Bombay by Elphinstone, and for Madras by Munro was done for the Agra Province by Thomason. He came to the conclusion that "to produce any preceptible impression on the public mind in the new province, it must be through the medium of the vernacular languages." The labours of Thomason in the pursuit of this policy were thus eulogised by Dalhousie in 1853: "I desire at the same time to add the expression of my feeling, that even though Mr. Thomason had left no other memorial of his public life behind him, the system of general vernacular education, which is all his own, would have suffered to build up for him a noble and abiding monument to his earthly career."*

In Bengal.—Bentinck deputed Mr. William Adam an American Missionary—to enquire into the state of education and his report is extremely valuable as throwing light upon the methods and extent of indigenous system of Education as it prevailed in Bengal for centuries. He was in favour of extending the Vernacular institutions on the lines of Elphinstone

* Briggs: 164.

and Munro but his proposals were not accepted, and emphasis was laid upon the imparting of higher education through English.

It will thus be seen that though a powerful impetus had been given to the spread of English Education, the Vernaculars were neglected, the net-work of indigenous schools fell to pieces, and as the funds made available for the promotion of knowledge were, in any case, almost meagre, the progress was imperceptible.

The first step of permanent interest was taken by the Education Despatch of 1854—of Sir Charles Wood, the President of the Board of Control; but the serious execution of the policy adumbrated by that Despatch properly falls into the next period.

(43) VIII—EMPLOYMENT OF INDIANS IN THE PUBLIC SERVICES

A perpetual problem of Indian Administration has been the extent to which Indians should be employed in the administration of the country. In the beginning they were employed in the Civil Departments as well as in the Army. Indeed it was through them that the duties of Dewani—*i.e.*, Revenue Collection and Administration of Justice were discharged. Their exclusion from office begins from the year 1772 when the Court of Directors resolved to 'stand forth' as the Dewan. At that time servants of the Company—Indian as well as European were tainted with corruption. Cornwallis tried to remove this evil by increasing the salaries of the European Servants of the Company and thus putting them above the temptation of receiving bribes. But, as already noted, the weakest point in the reforms of Cornwallis lay in his having

systematically ignored the claims of the Indians. Every extension of territory meant employment of more Europeans and an enormous addition to the 'patronage' of the Court of Directors. The way in which they distributed this patronage among themselves has been referred to already. That the general tone of the inferior servants of the Company—and particularly in the Interior of the Country—was low is now admitted, though there were many honourable exceptions. How jealous the Directors were of their patronage is well brought out by the fate of the Fort William College which Marquis of Wellesley established at Calcutta. The object of the College was to give to the young factors and writers of the Company a knowledge of the Vernaculars and of the history, customs, and institutions of the Indians. But the Directors ordered the immediate closing of the College. The servants in stead got a rudimentary knowledge in the Institution at Hailebury in England prior to their going out to India. The evil effects of the ignorance and inexperience of the English servants, and of the exclusion of Natives were well pointed out by Sir Thomas Munro and by Elphinstone; but it was reserved for Lord Willam Bentinck to be the first to throw open the judicial administration to the sons of the land. This new principle was laid down in the Act of 1833. 'No Native of the said territories, nor any natural-born subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office, or employment under the said Company." In explaining this clause, the Despatch which accompained the Act (and which has been attributed to James Mill) said "The meaning of the

Enactment we take to be that there shall be no governing caste in British India; that whatever other tests of qualification may be adopted, distinctions of race or religion shall not be one of them," and it proceeded to make the extended employment of Indians an argument for "the promotion of every design of education, and the diffusion among them of the treasures of science, knowledge and moral culture." It was Lord Macaulay who ran into raptures at having been one of those who assisted in framing the Act of 1833 which contained that clause—"that wise, benevolent, that noble clause" as he said.

In practice, however, the policy of the Company was one of exclusion. The distinction between Covenanted and uncovenanted service was put forward as an excuse for this exclusion. The Act of 1793 reserved all principal offices in India to the 'Covenented' servants (*i.e.* those who had entered into a Covenant or agreement that they would not trade or accept presents etc.) of the Company. But the covenant became meaningless when the Company ceased to be a commercial body in 1833. But the distinction was maintained and the exclusion of Indians continued.

In 1853 the Directors were deprived of their patronage and the Civil Service of India was thrown open to competition to all natural born subjects of Her Majesty. But as the competitve examination was held in London, it meant the exclusion of most of the Indian candidates. The assurances contained in the Queen's Proclamation did not materially improve matters. The subsequent history of this question will be taken up in a later Chapter.

(44) IX—LORD DALHOUSIE AS AN ADMINISTRATOR

Passing over a period of twenty years from Lord William Bentinck we come to Lord Dalhousie. He is the consummation of the work of the East India Company. His thirst for territorial expansion and his anxiety to introduce material and moral elements of Western civilization into India, illustrate the weakness and strength respectively of the Rulers of India of the first half of the Nineteenth Century. Not only, however, does he sum up in himself the characteristics of the preceding era, he foreshadows the development of the succeeding period. He is thus a transitional figure. His views have been set out most clearly in his well known Minute in which he took a review of his long administration.

MINUTE OF LORD DALHOUSIE—28TH FEBRUARY, 1856

Each item mentions what Dalhousie achieved or proposed to achieve regarding the various problems of administration.

1. Securing the peace of the Frontier by friendly treaties with Kashmir, Khelat, and Kabul.
2. Conquest of the Punjab and Burma.
3. Annexations of the kingdoms of Nagpur and Oudh, the principality of Satara, the Chiefship of Zansi, and the acquisition of Berar.
4. Increase in the revenue from 26 million pounds in 1847-48 to 30 million pounds in 1855.
5. Setting up of strong Civil Governments in the provinces newly acquired, particularly in the 4 kingdoms of Punjab, Burma, Oudh, and Nagpur.

6. Separation of Bengal, and its administration by Lieut.-Governor as required by the Act of 1853.
7. The establishment of the Legislature of India as distinct from the Executive Council of the Governor-General. Its procedure was fixed; its debates were printed and published.
8. Reorganization of the civil service after it had been thrown open to competition, by setting up Departmental examinations as tests of efficiency and promotion.
9. Appointments of Inspectors of Prisons in the N. W. Provinces and Bengal, and in Madras and Bombay for establishing prison discipline.
10. Extension of the system of primary education as it was established by Mr. Thomason in the N. W. Provinces, and the establishment of the Presidency College of Calcutta.

    Giving effect to the orders contained in the famous Education Despatch of 1854.

    A Department of Public Instruction under a Director was established; provisional rules for grants-in-aid were drawn up; and a Committee appointed to frame a scheme for the proposed Universities. Also special attention was paid to Female Education.
11. The first introduction into the Indian Empire of three great engines of social improvement, which the sagacity and science of Western times had previously given to the Western Nations namely Railways, uniform Postage, and the Electric Telegraph.

Railways.—A system of trunk lines connecting the

interior of each Presidency with its principal port and connecting the several presidencies with each other, projected and begun.

Post.—A special Commission laid down the following principal rules underlying the postal system (1) the institution of the post office throughout India as a distinct department, superintended by the Director-General, under the immediate control of the Government of India. (2) A uniform rate irrespective of distance, throughout India. (3) The substitution of postage stamps for cash payments. (4) The restriction of the privilege of official franking to as few officers as possible.

Telegraph.—About 400 miles of Electric Telegraph were brought into operation.

12. (*a*) The successful execution and completion of the Ganges Canal.
    (*b*) The Bari-Doab canal in the Punjab.
13. Works for improving the general communications of the Country.
    (*a*) internal navigation by steam-ship flotillas in the Ganges, the Indus, and the Irrawady.
    (*b*) Improvements in the ports of Calcutta, Bombay, Karachi, Rangoon and the new port of Dalhousie on the Bassein River.
    (*c*) Construction of roads—particularly the Grand Trunk Roads, and bridges &c.
14. Finally the practice of requiring the Provincial Governments to submit annual Reports of important occurrences in their Provinces was begun by Dalhousie.

(45) X—RETROSPECT

With this chapter the Administration of India by the East India Company comes to a close. It appeared as though the possessions of the East India Company in India were never left in a stronger or more enduring state than by Lord Dalhousie. But Dalhousie built upon treacherous foundations. His work—and along with it the work of his predecessors—received a rude shock when the great Mutiny broke out and was shattered to pieces. Everywhere the old order of things gave place to a new order. Amidst the ruins of the old order the foundations were being laid upon which an extensive system of administration was to be built up under the auspices of the Crown. To that period of reconstruction we turn in the next Part of this book.

PART III

BUREAUCRATIC GOVERNMENT

CHAPTER X

PARLIAMENTARY SUPREMACY IN THEORY AND PRACTICE:—

(46) I—HISTORY OF THE GOVERNMENT OF INDIA ACT 1858

When the Charter of the Company was renewed in 1853, Parliament, as if prescient of the impending catastrophe of the Mutiny, provided that the Indian territories should remain under the Government of the Company "in trust for the Crown until it should direct otherwise." The Indian Mutiny of 1857 gave the deathblow to the old system. It was argued by many that the question of abolishing the East India Company should not be raised in Parliament until peace was established in India. But the House of Commons resolved to take up that question without delay and two Bills were successively introduced in the House of Commons. It appeared at one time as likely that the two rival Bills would be made the subject of party strife. The House of Commons, therefore, resorted to the procedure of adopting certain Resolutions embodying the principles of the two Bills. A third Bill based upon these Resolutions finally became "The Act for the good Government of India" of 1858. It in

no way interfered with the details of Indian Government. It confined itself to the imprcvement of the machinery by which the Indian Government was to be thenceforward superintended and controlled *in England*.

(47) II—THE CASE FOR THE *Status Quo.*

Great apprehension was expressed at the time of the passing of the Act about the danger of the Government of India falling into the hands of the Crown. It was felt that there should be some check over the exercise of authority by the Crown, and it was contended that the House of Commons, on account of its other preoccupations would not be an effective check. The partisans of the East India Company said that an independent body like the Court of Directors was a better check than the House of Commons. In the Petition (framed by John Stuarts Mill) that was submitted to Parliament on behalf of the East India Company,* this position was well argued. The Home administration of India cannot be vested in the Minister of the Crown without the adjunct of a Council composed of statesmen experienced in Indian affairs. Such a body should not only be qualified to advise the Minister but also by its advice, to exercise a moral check over him. The Minister was likely to be influenced by private or public pressure. The Council ought to be a barrier also against the inroads of self-interest and ignorance to which he is exposed. If the Council was not a check, it would be a screen. In any case, a new Council would not have that authority which an established body like the

* Keith: Vol. I, pages 298—319.

Court of Directors possessed." The Petition, therefore, pleaded for the continuance of the *status quo*.

(48) III—DEFECTS OF THE OLD SYSTEM

But this plea proved unavailing. That the system of Double Government established by Pitt's Act of 1784 was a failure was admitted by all. At the same time when one reflected upon the work of some of the great administrators of India one was bound to conclude that if the Company's Rule over India proved a failure it was not due to the paucity of able servants, bul rather to the incurable defects of the system itself.

The greatest defect was the irresponsible character of the Double Government. There were as many as three authorities between which that responsibility was divided: the Court of Directors (who could recall a Governor-General though he was appointed by the Crown), the Board of Control (which really meant the President who, particularly in matters of peace and war, acted without the consent and in some cases without even the knowledge of the Directors, and involved India in unnecessary and ruinous wars) : and finally the Governor-General in Council (who, relying upon the support of the President of the Board of Control, often followed a policy that was not to the liking of the Court of Directors.)

Such an arrangement was bound to prove harmful to the interests of the people of India and it was opposed to the fundamental principle of the British Constitution. As Lord Palmerston, in introducing the Government of India Bill of 1858, said " A principle of our political system is that administrative functions should be accompanied by ministerial responsibility— responsibility to Parliament, responsibility to public

opinion, responsibility to the Crown." The Directors were responsible only to the Court of Proprietors and not to the people or Parliament of England, nor was the President of Board, though a member of the Ministry strictly responsible to Parliament through it.

A second defect was the cumbrous and dilatory method of administration. It involved an incredible amount of correspondence between England and India, with the inevitable result that a great deal of work was really done by those whom Burke called the "tyrants of the desk." Commenting upon this defect Palmerston said, "Before a despatch upon the most important matter can go out to India it has to oscillate between Cannon Row and India House....and its adventures between these two extreme points of the metropolis were often as curious as the familiar *Adventures of a Guinea*."

A further defect was the indifference of the House of Commons to the affairs of India. As Macaulay complained a broken head in Cold Bath Fields produced a greater sensation among Members of Parliament than three pitched battles in India.

Nor finally, was the Government by a mercantile company of a large country containing many Ruling Princes free from absurdity and anomaly.

In fact, though there was considerable diversity of detail as to the suggested remedy, all critics of the old system of Government agreed that it should be abolished and that the administration of India should be transferred from the Company to the Crown. The first step towards such transference was taken by the Act of 1853 by requiring six out of the twenty-four Directors to be nominated by the Crown. The Government of India Act of 1858 went further: it

abolished the Court of Directors and the Board of Control altogether, transferred the Government, territories, and revenues of India from the Company to the Crown, declared that India was to be governed by and in the name of the English Sovereign, authorised the appointment of an additional principal Secretary of State, and created the Council of India.

(49) IV—CENTRALIZATION

When the Crown assumed in 1858 direct responsibility for the Government of India, all powers —financial, legislative, and administrative came to be centralized in the Secretary of State for India and his Council on behalf of the Crown. In India also, as a necessary result, power came to reside in the hands of the Governor-General in Council and was exercised through a vast net-work of officials spread over the whole country. The resulting form of administration has been called "Bureaucratic Government." In this form administration is carried on by a hierarchy or gradation of officers, the lower officers being the agents of, and therefore entirely responsible to, those superior to them. The wishes of the people are never constitutionally consulted. This form of Government might be inevitable under certain conditions; nor need it necessarily be antagonistic to the interests of the people. Its essence lies in nothing being done by the people, though a set of officials may presume to do a great deal of what they think to be good for the people.

We may distinguish four tiers in the officialdom which now managed the affairs of India. At the top was (1) the Secretary of State for India and his Council responsible to Parliament for the administration of

India. (2) Below him was the Viceroy and Governor-General of India in Council who was at the head of the administration in India and who was "The man on the spot." (3) Below him was a number of Provincial (or, as they were also called, local) Governments or administrations under Governors, Lieutenant-Governors or Chief Commissioners. These Governments did not enjoy any independent powers of their own but were the agents of the Governor-General in Council. (4) Finally, within the provinces a more or less uniform system of administration came to be established, the unit of which was the District, and the chief executive officer in which was Collector-Magistrate or the Deputy Commissioner.

In this Part we shall consider the growth of the system along these four lines, with special reference to the relations that bound the lower to the higher authorities. The defects of the system became obvious even before the process of centralization was completed. They were partially removed by (1) adopting the converse process of Decentralization as between the Central and Provincial Governments, (2) the institution of Local Self-Government within the provinces, and finally, (3) by the establishment of Legislative Councils. An inquiry into the results accomplished or anticipated in each of these directions will form a proper Introduction to the study of Responsible Government which is the subject of the Fourth Part of this Book.

(49 a) IV a—HISTORICAL

To understand these processes of Centralization and Decentralization, the student should have some knowledge of the political history of India under the Crown. I give here a bare outline of that history.

The transfer of the Government of India from the Company to the Crown was announced in India by the Queen's Proclamation on 1st November, 1858. As the first Viceroy of India, it fell to the lot of Lord Canning to remove the real grievances of the people and to inspire confidence among them, as also to reconstruct the machinery of administration. He introduced what is called the Departmental or 'Portfolio' system in his Executive Council, reorganized the Army, fixing European troops at 70,000 and Indian at 135,000, and with the help of the expert from England, James Wilson, put the finances of India upon a sound basis. As for the Princes and people, the right of adoption of Indian Princes was solemnly affirmed, the proprietary rights of the Talukdars in Oudh were recognized, the occupancy rights of the tenants in Bengal safeguarded (by the Bengal Rent Act of 1859); education of the people was provided for by the establishment of Universities; their contentment secured by the codification of the penal law and that of Civil and Criminal Procedure; and their liberty protected by the establishments of the High Courts at Calcutta, Madras, and Bombay. Thus on the whole the name of "Clemency Canning" which his enemies fastened upon him as a term of reproach has become the fairest tribute to his memory.

Passing over Lord Elgin we come to the time of Lord Lawrence. Few were better qualified by experience for the Viceroyalty of India. He had administered in the Punjab, and after his return to England had worked under two Secretaries of State—Lord Stanley and Sir Charles Wood. He had the additional advantage of having renowned colleagues: Sir Henry

Maine was his Law Member, and Sir Charles Trevelyan his Finance Member. What Canning did for the tenants of Bengal, Lawrence did for the rayats of Oudh and the Punjab. Like Canning he was in favour of the Permanent Settlement, and the agrarian question was prominently brought before him by the outbreak of famine in Orissa in 1866, when a million of the population is said to have perished. Lawrence paid some attention to the improvement of sanitation of the country—a special Commissioner for that purpose being appointed in each Presidency. He reduced to some extent the military expenditure of the country, and on the N.-W. Frontier enunciated the policy of "Masterly Inactivity" that has been associated with his name ever since.

His successor Lord Mayo had also able advisers. Sir Fitz James Stephen was his Law Member, and Sir Richard Temple and Sir John Strachey were his financial advisers. He gave a new impetus to the construction of public works such as canals and railways, borrowing money for these purposes. But Lord Mayo was already feeling that the provincial Governments lacked all real power, and as a first step towards giving them a vestige of that power in matters of finance, set out his scheme of Decentralization.

Under Lord Northbrook there was a terrible famine in Bengal, but thanks to the liberal measures of relief adopted by Sir George Campbell—the Lieutenant-Governor, and Sir Richard Temple, the mortality was insignificant. There was also agrarian trouble in the Deccan due to the growing indebtedness of the rayats.

Thus on the whole we may say that the impulse for liberal reform and popular improvement which was powerful in England in the first administration of

Mr. Gladstone (1868–1874) was conveyed to India through Mayo and Northbrook and there was a great extension of roads, railways, and canals.

This tide of reform received a severe set-back when Disraeli came to power in England and Lord Lytton became the Viceroy of India. Lord Lytton's name is associated with the pursuit of an aggressive policy on the N.-W. Frontier resulting in a War with Afghanistan, an increase in Military expenditure, and the consequent growth in taxation. Popular discontent that was bound to result from these measures was intensified by a famine in Madras, and was sought to be put down by imposing stringent restrictions upon the Vernacular press.

A crisis was averted by the advent of Lord Ripon as Viceroy. In England also Gladstone had come to power once again. Ripon gave up the Frontier policy of his predecessor; partially restored the liberty of the Indian press; continued and extended the policy of Lord Mayo, of 'decentralizing power' to the provinces, and laid the foundation of "Local Self-Government" in urban as well as rural areas; sympathetically inquired into the relations of the Zamindars and tenants in Bengal; proposed a liberal land-revenue policy with regard to the Rayatwari Settlement in Bombay and Madras; laboured to consolidate secondary education in the country by appointing a Commission under Sir William Hunter; and placated educated Indians by trying to remove racial inequality in the administration of Criminal law by the so-called "Ilbert Bill".

Lord Ripon understood, as none else before him understood, the defects of the 'Bureaucratic' form of government. Wide-spread distress among the

agricultural classes was at the root of the trouble. The distress was due to the rigid policy of land-revenue collection and enhancement, the frequency of famines, the growing indebtedness of the people, and their increasing poverty caused by the decay of handicrafts and other rural industries. The policy of setting aside vast tracts of land as 'Reserve Forests,' and depriving the rayats of the immemorial rights of pasturage, manure-collection etc. added to that distress. The distress was bound to become vocal with the spread of education.

Lord Ripon was anxious to remove the deep-lying causes of agrarian distress as also to spread contentment among the educated classes by giving them a direct share in administration. But he had to return to England before accomplishing a tithe of what he proposed to do.

His successor, Lord Dufferin, had good intentions. He sympathised with the growing aspirations of educated Indians and made tentative proposals for increasing their association in the work of Government. He proposed to enlarge the Legislative Councils and appointed a Public Services Commission which slightly increased the number of Indians in the Services.

Matters went from bad to worse under his two successors—Lord Lansdowne and Lord Elgin, and Famines and Plague made the last years of the last Century full of misery and discontent.

Lord Curzon addressed himself to the Herculean task of improving the state of things in India. He had rare powers of intellect and application; his knowledge of India and her frontiers was extensive and first hand; his avowed motives were unimpeachable. And nothing bears a more indubitable testimony to

the weakness of the Bureaucratic form of Government than the failure of such a man as Lord Curzon.

(50) V—THE SECRETARY OF STATE AND HIS COUNCIL

We now take up for consideration the Secretary of State and his Council,* who stand at the top of the the Indian Bureaucracy. The duties and powers of the Secretary of State in Council were comprehensively defined as all those duties and powers which were exercised by the East India Company and the Board of Control in England, and by the Servants of the Company in India. In particular he was charged with the "Superintendence, direction, and control of all acts, operations, and concerns which in any wise relate to the Government or revenues of India."

The position of the Secretary of State for India differed from that of the other four Secretaries of State (Home, Foreign, Colonial, and War) in the British Cabinet in two respects. (1) His salary and that of his Parliamentary and Permanent Under-Secretaries was placed on the revenues of India, and (2) he was given a Council which he was expected always to consult and in certain cases whose decisions were binding upon him.

That the Secretary of State should have a Council became obvious when one remembered that generally he had no sufficient knowledge and experience to discharge duties so various and complicated as those connected with the administration of India. But the exact composition of the Council and its relation to the Secretary of State gave rise to great difference of

* NOTE:—Some teachers might find it more convenient to begin with the local Governments and end with the Secretary of State.

opinion. The Council was not meant to be a screen as the Court of Directors were in the past. Neither was it to be the master of the Secretary nor a mere puppet in his hands. Its real position was that of advisers and for that purpose its members were to possess the three requisites of intelligence, experience, and independence.*

The Council under the Act of 1858 consisted of 15 members of whom eight were appointed by the Crown and seven were elected, in the first instance by the Directors and subsequently by the Council itself. They held office during good behaviour but were removable on an address by both Houses of Parliament. They were debarred from sitting in Parliament. It was thought that otherwise they would become party men and their relations with the Secretary of State would be strained, especially after a change of Ministry.

The function of the Council was to conduct the business transacted in the United Kingdom in relation to the Government of India and the correspondence with India.

As the full responsibility for the Government of India was fastened upon the Secretary of State it was natural to arm him with the power of overriding his Council. But to check an abuse of this power two qualifications were imposed upon it; when the Secretary of State acted in opposition to a majority of his Council he was to state and place on record the reasons why he set aside their opinion: similarly any Councillor whose advice was not adopted could also place on record the reasons which induced him to give that advice. (2) The Secretary of State was bound

* Keith: Vol. II, Lord Derby's Speech.

to call his Council at least once a week.

Regarding the transmission of correspondence there were two exceptions to the general rule that all despatches to and from India should be laid before the Council : *viz.*, the Secretary of State might, if he thought fit, issue orders on *urgent* matters without calling the Council together, in which case he was to place those orders before their next meeting; similarly he might send out orders and instructions in *secret* matters without previously communicating those orders to the Council. The secret matters related to the carrying on of war, or diplomatic arrangements with the Native States.

In two cases the Secretary was bound by the majority of his Council ; (*a*) in the case of the election of members to his Council, and (*b*) in the matter of expenditure of the revenues of India.

From these main provisions of the Act of 1858 it is easy to infer what the intentions of Parliament were as to the relative position of the Secretary of State and his Council, and the relations of both with the Government of India. Parliament did not wish to disturb the legislative and administrative powers that then rested in the Governor-General and his Council. It imposed a Council of India as a check over the authorities in India and also over the Secretary of State ; and over all these three authorities the House of Commons, in the absence of any representative institutions in India, was to exercise a close and constant supervision.

(51) VI—THE SECRETARY OF STATE

In practice, however, all power tended to gather in the hands of the Secretary of State. This was

brought about (1) by the indifference of Parliament to matters Indian; (2) by the position of subordination and dependence to which the Council was reduced; and finally, (3) by a very rigid control which the Secretary of State came to establish over the details of Indian Finance, Legislation, and Administration.

(1) *Nature of Parliamentary Control.**—The authority of Parliament over the Indian Government is supreme. It is open to Parliament to exercise control either by means of direct legislation, or by requiring its approval to Rules made by the Secretary of State or the Governor-General in Council under delegated powers of legislation; it may control the revenues of India; finally it might exert its very wide powers of calling the responsible minister to account on any matter of Indian administration. In practice, however, Parliament legislates for India on two occasions: to make amendments in the constitution of India, and to authorise loans raised by the Secretary of State. The bulk of Indian legislation is left to the Indian Legislatures, though closely controlled by the Secretary of State. Parliament required Rules to be submitted to it only in important cases *e.g.*, Rules made for the nomination and election of additional members of the Legislative Council; Rules for the appointments to be made to the Indian Civil Service, etc.

Nor does Parliament control Indian revenue (apart from loans raised by the Secretary of State); or Indian expenditure (apart from military expenditure incurred beyond the Indian frontiers); As the salaries of the Secretary and the Under-Secretaries were paid out of the Indian revenues they did not furnish an occasion

* M. C. Report S. 33.

for discussion and criticism of their Indian policy. In fact, once a year, statement of the revenues and expenditure of India together with a "Moral and Material Progress Report" was submitted to Parliament. The Report was a cumbrous compilation and the interest of Parliament in the budget debate was nil. As Mr. Ramsay Macdonald admitted, "Parliament has not been a just or watchful steward. It holds no great debates on Indian questions; it looks after its own responsibilities with far less care than it looked after those of the Company; its seats are empty when it has its annual saunter through the Indian budget."*

Nor finally does Parliament avail itself to the fullest extent of the other means of making its opinion felt on matters of Indian administration *e.g.*, by questions, by amendments to the address, by motions to adjourn, by resolutions, or by motions of no confidence. On the whole the Authors of the Montford Report had no hesitation in saying that the interest shown by Parliament in Indian affairs was neither well-sustained nor well-informed. Before 1858 Parliament held regular inquests in Indian administration prior to each renewal of the Charter; but after 1858 it ceased to exercise control at the very moment when it acquired it. The Montford Report regarded this omission on the part of Parliament to institute regular means of reviewing the Indian administration as much responsible as any one cause for the failure to think out and work out a policy of continuous advance for India.

(2) *Subordination of the Council to the Secretary of State.* This was effected in three ways (*a*) in the

* R. Macdonald: p. 44.

matter of its composition; (*b*) in its powers; and (*c*) method of transacting business.

(*a*) By an Act of 1869 the Secretary got the right of filling all vacancies in the Council, and the tenure was changed from tenure during good behaviour to tenure for a term of ten years. This period was further reduced to seven years by an Act of 1907. About the same time the practice was begun (by Lord Morley) of appointing Indians to the India Council.

(*b*) Again though the Act of 1858 required the concurrence of a majority of votes at a meeting of the Council for incurring expenditure in India, this power of "Financial veto" was, as a matter of fact, of little moment. There was a discussion on this question in the House of Lords in 1869. "The discussion showed that whilst the object, and to some extent the effect, of this Section was to impose a constitutional restraint on the powers of the Secretary of State with reference to the expenditure of money, yet this restraint could not be effectively asserted in all cases especially where Imperial questions were involved The Council must in the last case submit to Parliament. It ought to be clearly understood that the moment the House steps in and expresses an opinion on a subject connected with India, that moment the jurisdiction of the Council ought to cease."

Further the circumstance that the Secretary of State could issue orders in secret or urgent matters without consulting the Council augmented his powers.

(*c*) The method of transacting business in the India Office and in the Council of India also tended in the direction of increasing the importance of the Secretary of State. In the India Office, work was divided among various Departments (*e.g.* Finance, Revenue,

Public Works, Political, Military, Medical, Legal, and Department for the Purchase of Stores on account of Government of India). Each Department was under a Secretary selected by the Secretary of State. The Secretary of State and the Governor-General carried on a good deal of correspondence of a private character. The increasing facilities for this correspondence throw greater power into the hands of the Secretary of State and the Governor-General at the cost of their respective Councils. No record is kept of this private correspondence. But their official correspondence was dealt with in respective Departments to which it belonged. The Secretary of the Department having worked up a case placed it before a Committee of the Council. The Council worked through Committees. There were eight or nine of them corresponding to the Departments in the India Office and many Councillors served on more than one Committee. They were appointed on the Committees by the Secretary of State. It was before such a Committee that the Secretary of the Department placed his file. The Committee then recorded their opinion on the file which was next sent on to the Permanent Under-Secretary of State. He took it to the Secretary of State who allowed him to issue orders on it or issued them himself, or allowed the Parliamentary Secretary to do so, or ordered the file to be taken before a full meeting of the Council. Of course in great many cases the orders were issued by the Permanent or Parliamentary Under-Secretary. This method of transacting work through Committees gave enormous power to the Secretary of State.

(3) Finally we come to the *rigid and minute control exercised over the Government of India.* This control

was based upon the theory that the supremacy of Parliament over the affairs of British India was absolute.* A few examples will show how this theory was established. (*a*) In 1870 Lord Mayo's Government as a whole protested at being required to pass the Bills which ultimately became the Contract Act and the Evidence Act. At that time a Law Commission used to sit in London to frame drafts of Bills and Codes which were then sent on to the Legislative Council of the Governor-General for adoption. The Secretary of State required the Government of India to accept the two Bills in the shape in which they had been recommended by the Law Commission. The Government of India protested on the ground that such Codes deprived the Legislative Council of all liberty of action. The Home Government though admitting the possible inconvenience and embarrassment said, "that the risk of serious embarrassment would become much greater if a clear understanding were not maintained as to one great principle which from the beginning has underlaid the whole system. That principle is that the final control and direction of the affairs of India rest with the Home Government, and not with the authorities appointed and established by the Crown, under Parliamentary enactment, in India itself.

"The Government established in India is (from the nature of the case) subordinate to the Imperial Government at Home. And no Government can be subordinate, unless it is within the power of the Superior Government to order what is to be done or left undone, and to enforce on its officers, through the ordinary and constitutional means, obedience to its

* M. C. Report S. 34.

direction as to the use which they are to make of official position and power in furtherence of the policy which has been finally decided upon by the advisers of the Crown."

(*b*) Again, when Lord Northbrook attempted to assert the independence of his Government in fiscal matters, Mr. Disraeli's Government were equally decided in affirming their constitutional rights. "It is not open to question that Her Majesty's Government are as much responsible to Parliament for the Government of India as they are for any of the Crown Colonies of the Empire......It necessarily follows that the control exercised by Her Majesty's Government over financial policy must be effective also."

(*c*) A further extension of the theory of Parliamentary supremacy was enunciated in 1894 on the occasion of the Cotton Duties Bill. Sir Henry Fowler, the Secretary of State, then laid it down positively that the principle of the united and indivisible responsibility of the Cabinet, which was recognized as the only basis on which the Government of the United Kingdom could be carried on, applied to the Indian Executive Council, in spite of the different nature of the tie which held its members together. "It should be understood that this principle which guides the Imperial Cabinet, applies equally to administrative and to legislative action; if in either case a difference has arisen, members of the Government of India are bound, after recording their opinion, if they think fit to do so, for information of the Secretary of State in the manner prescribed by the Act, either to act with the Government or to place their resignations in the hands of the Viceroy. It is moreover immaterial for the present purpose what may be the nature of

the considerations which have determined the Government of India to introduce a particular measure. In any case the policy adopted is the policy of the Government as whole, and as such must be accepted and promoted by all who decided to remain members of the Government."

Thus the supremacy of Parliament over the Government of India, and of the latter over the local Governments, and also the principle of unity within the Indian executive were finally established.

It will be now realised, in the light of this principle what an effective control the Secretary of State exercised over the Government of India. The relation will be examined in greater detail in the next chapter. But the responsibility of the Secretary of State to Parliament for every act of Indian administration, the fitful interest taken by Parliament which might make the most paltry incident in India the subject of interpellation or debate, and above all the telegraphic communications between the Secretary of State and the Viceroy tended to throw enormous power in the hands of the Secretary of State.

(52) VII—REVIEW OF THE POWERS OF THE SECRETARY OF STATE IN COUNCIL

It will thus be seen that just as under Double Government all power came to reside in the President of the Board of Control, similarly, under the guise of Parliamentary Supremacy the Secretary of State became the repository of all power. Well-informed writers like Cheilley, Sir O'Moore Creagh, and Mr. Ramsay Macdonald agree in confirming this view. In a subsequent section we shall take up the question of the reform of the Council of the Secretary of State.

CHAPTER XI

ADMINISTRATIVE CENTRALIZATION IN INDIA

(GOVERNMENT OF INDIA)

(53) I—INTRODUCTORY

From the Secretary of State in Council let us pass on to the centralized form of administration that came to be established in India. The best way of understanding the process of centralization is to consider the Government of India in its relation to the Secretary of State in Council above it, and the Provincial Governments below. We traced in an earlier section how the Governor-General of India in Council came to be evolved out of the Governor-General of Bengal in Council, under the Acts of 1773, 1784, and 1833. In 1854 when he was relieved of his duties as Governor of Bengal, he became the highest authority in India "for the superintendence, direction, and control" of the Local Governments. In 1858 he was subjected to the general control of the newly created Secretary of State for India in Council. We shall first examine his relations with this superior authority.

(54) II—THE GOVERNOR-GENERAL IN COUNCIL IN RELATION TO THE SECRETARY OF STATE IN COUNCIL

Reference has been made in the last Chapter to the doctrine of the absolute Sovereignty of Parliament. The multifarious control exercised by the Secretary

of State over the Government of India was a corollary from that doctrine. What power the Governor-General exercised in India was exercised on sufference: it was due to his being "the man on the spot" and the head of an extensive system of administration removed by 6000 miles from the real seat of authority. It is true that the Governor-General exercised great powers and functions as the successor of those Native Rulers whom he had superseded. The exercise of such powers was not derived from English Charters or Parliamentary enactments. In spite of this, however, the Secretary of State exercised a rigid control over the Government of India in matters of Legislation, Finance, and Administration, the nature of which must be now explained.

In Legislation.—It would seem to be the object of the Acts of 1858 and 1861 to invest the Government of India with the initiative in matters of Legislation. For, (as will be explained in the Chapter on Legislative Councils,) the Councils Act of the latter year vested the power of previous sanction for the introduction of Bills in the Provincial Councils, in the Governor-General and not in the Secretary of State. The latter had the power of veto only, to be exercised on behalf of the Crown. But soon, as a result of controversy between Lord Mayo and the Duke of Argyll over the Punjab Drainage and Canal Act, the latter laid down that the prerogative of the Secretary of State was not limited to a veto of the measures passed in India. He said "the Government of India were merely Executive Officers of the Home Government who hold the ultimate power of requiring the Governor-General to introduce the measure and of requiring also all the official members to vote for it."

Not only was every measure to be introduced in the Central or Provincial Legislative Council to be previously submitted to the Secretary of State for sanction, but every important alteration in the measure in its passage in the Legislature was to be similarly communicated for approval. Previous intimation to the Secretary of State was dispensed with in the case of unimportant or urgent matters. Such was the net result of the controversy between Lord Northbrook and Lord Salisbury in 1874 which was merely a continuation of that between Lord Mayo and the Duke of Argyll. But when in 1875 Lord Northbrook passed the Traiff Act imposing a duty of 5 p. c. on imported Cotton Goods without referring the matter to the Secretary of State on the ground that it was urgent he was censured by Lord Salisbury who required telegraphic intimation to be given to the Secretary of State in the case of urgent legislation. This of course led to the resignation of Lord Northbrook. But the effect of the orders of Lord Salisbury was to deprive the Government of India of all initiative in and control over Legislation in Central or Provincial Councils of India.

In Finance and Administration.—We may say generally that the Governor-General in Council was required "to pay due obedience to all such orders" as he may receive from the Secretary of State. The Government of India Act of 1858 placed all financial powers in the Secretary of State and every project for novel or large expenditure, every revision of the pay of or increase in the establishments, every change in Imperial or Provincial Taxation, in fact every departure from the established policy had to be referred to the Secretary of State for information and sanction.

The justification for this minute and multifarious control was that as there was no popular check over the Government of India *in India itself*—Parliament was the custodian and guardian of the interests of the people of India and the Secretary of State exercised the control in discharge of the responsibility of Parliament to the people of India.

(55) III—THE VICEROY AND GOVERNOR-GENERAL

From the relations between the Secretary of State and the Governor-General in Council, let us next turn to the Governor-General himself. When India was transferred to the Crown in 1858 the Governor-General became the "Viceroy," appointed by Royal Warrant, his term of office being fixed at five years. As Mr. Ramsay Macdonald points out*, the Viceroy performs three great functions. He personifies the Crown, he represents the Home Government, and he is the head of the Indian Administration.

The first is now his proper function. He is the Crown visible in India, the ceremonial head of the Sovereignty, the Great Lord. He is the seat of justice and catches up in himself, by virtue of his office, the historical traditions and sentiments of rulership."

His position as the Viceroy—in which capacity he deals with the Ruling Princes of India—should be distinguished from his position as the Governor-General in which capacity he is the representative of the Home Administration, and the Head of the Government of India. He is bound to carry out the views of the Home Government with regard to important questions *e.g.* the Fiscal Policy of India, the Frontier Policy, Foreign Relations, Constitutional questions.

* R. Macdonald: 57.

Otherwise he must resign. Lord Northbrook had to resign because he would not carry out the Fiscal and Foreign Policy of the Home Government; Lord Curzon had to resign because his view regarding the constitutional position of the Commander-in-Chief of India did not find support with the Home Authorities.

(56) IV—HIS EXECUTIVE COUNCIL

Its Constitutional Position.—The Governor-General of India had always a Council associated with him in the transaction of bussiness. In fact the Governors of the Presidencies in India and of most English Colonies in other parts of the world had Councils of their own. But there are two points about the development of the Council of the Governor-General which distinguish it from similar Colonial Councils *e.g.*, in America (1) The Colonial Councils, consisting mainly of the Heads of Departments; were of an advisory character with the result that the orders of the Colonial Government were described as the orders of the Governor and not of the Governor in Council. In India the Council was not only advisory but also executive so that the orders of the Governor (and of the Governor-General) are described as the orders of the Governor (or Governor-General) in Council. (2) In the Colonies there was a second Council for the purposes of legislation. In India the Council of the Governor-General, (and of the Governor) *itself* was invested with the power of making Regulations. The importance attached to the law-making function of the Executive Council was small in the beginning; but it came to be emphasized with the growth and complexity of administration and the extension of territories. The interesting result was that the Executive Council

expanded into the Legislative Council—a process which will be described fully in another Chapter.

Character of the Council up to the Councils Act of 1861—The history of the Council in its executive capacity dates from the Regulating Act. The defect of the Regulating Act which made the vote of the majority of the Council binding upon the Governor-General, (who had only a casting vote), was removed by the Act of 1786, chiefly at the insistence of Lord Cornwallis. That Act empowered the Governor-General to override the majority of the Council in special cases and to act on his own responsibility. This completely changed the character of the Council. From a set of obstructionist colleagues it was transformed into a body of submissive advisers. As the Members of the Council were generally servants of the Company who had long served in India and who, therefore possessed intimate knowledge of Indian affairs which the newly-arrived Governor-General usually lacked they gave to him their opinion on matters that came before them. And though the Governor-General was not bound to accept that opinion and act accordingly and though he was individually and effectively responsible for every act of the Government, the Members collectively exercised a useful check over the Governor-General.

Change in its character.—But in course of time a change occurred which greatly modified this character of the Council. The change was due to the abandonment of the earlier method of transacting business. At first all papers were submitted to all members of the Council in the order of their seniority and, therefore, first to the Governor-General. The inconvenience of this procedure became intolerable when every extension of territory added to the work of the Council and the

Governor-General had to be absent from his capital for months together on account of the distracted state of the country. There were no roads, or railways, or telegraphs, and either there was an inconvenient accumulation of public work or the Governor-General transacted it without cousulting his Council. The Council was thus reduced to second-rate importance and the situation became so impossible that Lord Dalhousie proposed radical changes in the procedure of the Council. It was, however, reserved for his successor, Lord Canning, to carry them out.

Reorganization by Lord Canning.—The principle of specialization had been already introduced into the Council by the appointment in 1834, of an expert member for law, and in 1859 for finance. It was along this line of specialization and departmentalization that Lord Canning proceeded. When the Act of 1861 gave the Governor-General power "to make rules and orders for the more convenient transaction of business", he introduced what in effect became the 'Portfolio System'. Each Member was placed at the head of one or more Departments, and made responsible to the Governor-General.

Strength of the Council before 1909.—The Act of 1861 also raised the number of members to five. In 1874 a *sixth* Member (for Public Works purposes) was added, but for a number of years after 1880 this post was left vacant. It was Lord Curzon who created a new Department for the promotion of Commerce and Industry in charge of a new Member (now again the sixth Member). During his time also .another change took place. Before that time the Military Department was placed in charge of an Ordinary Member of the Council—always a soldier but

precluded from holding a command in the army during term of office—and distinguished soldiers like Sir George Chesney had held the office. The Military Member remained at Head Quarters and was the constitutional adviser of the Viceroy on questions relating to the Army. The Commander-in-Chief was responsible for promotions and discipline and movement of troops, but many times his duties prevented him from attending regularly in Council. He had to submit his proposals through the Military Department. Lord Kitchner when he came out to India in 1902 did not like this arrangement and proposed to create a new Army Department of which he was to be the head and responsible for the whole Military administration. Lord Curzon protested that this proposal had the tendency to concentrate Military Authority in the hands of the Commander in-Chief and to subvert the authority of the Civil power by depriving it of independent Military advice. But no heed was paid to the protests of Lord Curzon and he, therefore, resigned in 1905.* Of the six Ordinary Members three were required to be persons who, at the time of their appointment had served at least 10 years in the service of the Crown in India ; and one member (the Law Member) was required to be a Barrister of not less than five years' standing. The absence of statutory qualification for the remaining two ordinary members was availed of for the purpose of appointing Indians to the Executive Council under the Reforms scheme of Lords Morley and Minto.

* Sir Thomas Raleigh : Introduction to the speeches of Lord Curzon.

(57) V—WORKING OF THE COUNCIL

We get an insight into the internal working of the Council from the writings of those who were distinguished Members of that Body *e.g.*, Sir William Hunter, Sir John Strachey, Sir John Chesney &c. Thus Sir William Hunter says in his *Life of Lord Mayo* "All routine and ordinary matters were disposed of by the Member of the Council within whose Department they fell. Papers of greater importance were sent, with the initiating Member's opinion, to the Viceroy, who either concurred in or modified it. If the Viceroy concurred, the case generally ended and the Secretary to the Department worked the Member's note into a letter or Resolution to be issued as order of the Governor-General in Council. But in matters of weight the Viceroy, even when concurring with the initiating Member's view, often directed the papers to be circulated either to the whole Council or to certain of the Members whose views he might think it expedient to obtain on the question. In cases in which he did not concur with the initiating Member's views, the papers were generally circulated to all the Members or the Governor-General ordered them to be brought up in Council. Urgent business was submitted to the Governor-General directly by the Secretary of the Department under which it fell; and the Viceroy either initiated the order himself or sent the case for initiation to the Member of the Council at the head of the Department to which it belonged."

Sir William proceeds to say that the Viceroy also gave one day a week to his Executive Council.

A later glimpse into this subject is afforded by the Report of the Royal Commission on Decentralization.

"In regard to his own department, each Member of Council is largely in the position of a Minister of State, and has the final voice in ordinary departmental matters. But any question of special importance and any matter in which it is proposed to overrule the views of a Local-Government, must ordinarily be referred to the Viceroy. This latter provision acts as a safeguard against undue interference with the Local Governments but it necessarily throws a large amount of work on the Viceroy. In the year 1907-08 no less than 21.7 per cent of the cases which arose in, or came up to the Home Department required submission to the Viceroy. The Home Department is, however, concerned with the questions which are, in a special degree, subject to review by the Head of the Government, and we believe that in other Departments the percentage of cases referred to the Viceroy is considerably less. Any matter originating in one Department which also affects another must be referred to the latter and in the event of the Departments not being able to agree the case would have to be referred to the Viceroy."

The Report then proceeds to accurately describe the position of the Departmental Secretaries. "It corresponds very much to that of the Permanent Under-Secretary of State in the United Kingdom, but with these differences that the Secretary is present at Council Meetings; that he attends on the Viceroy, usually once a week, and discusses with him all matters of importance arising in his Department; that he has the right of bringing to the Viceroy's special notice any case in which he considers that His Excellency's concurrence should be obtained to action proposed by the Departmental Member of Council;

and that his tenure of office is usually limited to three years. The Secretaries, the Deputy Secretaries, and Under-Secretaries are generally Members of the Indian Civil Service."

Councillors become mere Departmental Heads.—It is abundantly clear from these extracts that the Council from being at one time a collective check over the Governor-General became in course of time a group of Departmental Heads. The Members of the Council found their position assailed in two opposite directions. On the one hand, the growth of centralization added to the strength of the Secretaries and Deputy Secretaries who had access to the Viceroy independently of the Member. The Viceroy, on the other hand, freely interfered with business in all Departments at all stages. Thus between the Viceroy above them and their Secretaries below them, the Members lost a great deal of their intiative and power. Many writers agree in the view that the Governor-General dominated over his Council and interfered with the working of Departments to an extent which made the responsibility of the Member of the Departments a mere farce.

(58) VI—POSITION OF THE GOVERNOR-GENERAL

We must now explain how the Governor-General came to exercise such wide powers in his Council. The explanation is to be found partly inside and partly outside the Council.

The Governor-General of India is appointed by His Majesty by warrant under the Royal Sign Manual. The appointment is made on the advice of the Prime Minister and is, of course, made on party considerations. The Ordinary Members of the Council also are appointed

by His Majesty by Warrant under the Royal Sign Manual. This means in practice that the appointments are made by the Secretary of State personally who generally consults the Governor-General but is not legally bound to do so. By the Act of 1858 these appointments were required to be made by the Secretary of State for India in Council, with the concurrence of a majority of Members to be present at a Meeting. But the exercise of this right by the Secretary of State alone necessarily made the Ordinary Members entirely subservient to the Governor-General to whom they owed their recommendation and to whom they looked up for further promotion. Further as the majority of Ordinary Members was drawn from the Indian Civil Service, obedience to superior authority became their ingrained characteristic. Sir O'Moore Creagh said "the mental attitude of the Members of the Council to the Governor-General is one of obsequious respect, which causes them—with rare exceptions—to treat his slightest wish as a Khati-Sherif, to be disregarded at their peril. When such a wish is prefaced in the Council, as is frequently the case, by the announcement, that the proposal under discussion emanates from the Secretary of State there is rarely any opposition to it, no matter how impolitic it may be. I do not think that individuality or independence are wanted in the Council."* Next to the Members drawn from the Indian Civil Service there was the practice of one or two Members being appointed from the Civil Service in England. Though such Members were expert in their own work *e.g.* Finance, Commerce &c., their ignorance of Indian conditions and the jealousy with which they were

* Sir O'Moore Creagh : Indian Studies, 101.

regarded by their Anglo-Indian confreres made them habitually look up to the Governor-General for support. The Indian element of the Council also was not particularly known for independence of view and action. As the tenure of office was for five years only, the expectation of promotion and other jobs *e.g.* a place in the Council of the Secretary of State or Lieutenant-Governor or Chief Commissionership, operated in the same direction.

From the composition of the Council let us turn to the method of transacting business in the Council.

(1) The Rules and Regulations for the convenient transaction of business in the Council made, under Section 8 of the Act of 1861, by the Governor-General and collected together in "Rules of business" are kept absolutely secret. Not even Parliament knew anything about their exact nature. The rules in addition to being strictly confidential were liable to change at the sweet will of the Governor-General. He thus came to exercise an enormous amount of discretion as to the mode of distributing work among the Departments and of assigning the Deparments to the Members of the Council.

(2) Again the Governor-General could appoint any place within British India for the meeting of the Executive Council, and he and *one* Ordinary Member formed the legal quorum for the transaction of business. This very small quorum was fixed at a time when there were only three Members of the Council of the Governor-General; but it was not changed though the number of Councillors had increased to six or seven. It thus became possible for the Governor-General to consult one or two selected Members of his Council and claim to have consulted

his whole Executive Council. Properly speaking, however, such "surreptitious meetings" as Sir O'Moore Creagh characterised them, ought to be distinguished from formal meetings of the Council for which a convening notification in the prescribed form has to be sent to all Members. Thus "When Lord Hardinge was accused of not consulting his Council regarding Mesopotamia, he, in his defence speech in the House of Lords, stated that he had consulted the Finance Member and the Commander-in-Chief, and he contended that any ordinary meeting of the Governor-General and one Ordinary Member may exercise all the functions of the Governor-General in Council, and he proceeded to argue that he had therefore conformed to the law.*

(3) Further all orders and other proceedings of the Governor-General in Council are expressed to be made by the Governor-General in Council and signed by a Secretary to the Government of India.

As every order is issued in the name of the Governor-General in Council it is impossible to say whether it is the result of deliberation and decision in the full Council, or of consultation between the Member in charge and the Governor-General or of the Secretary acting on his own initiative. Sir O'Moore Creagh was of opinion that this procedure was not in accordance with the Acts of Parliament. Important business was ordinarily dealt with between the Secretary, the Member, and the Viceroy, about which the Council as a body knew nothing. He expressed his belief that this procedure was first prominently introduced by Lord Minto.*

The difficulty of knowing whether the order was

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* Indian Studies: 103.

the view of the Member in charge, or of the Member in Charge and the Governor-General, or of the Gevernor-General in Council as a whole was increased by indiscriminate use of the expressions "Governor-General in Council" and "Government of India" as equivalent in meaning. It is not possible to say from the designation "Government of India" in telegraphic or private correspondence whether and with what result the Council was consulted.

It will thus be seen that the Indian Council's Act of 1861, by giving to the Governor-General the power to make rules for the distribution of work among the Departments, by allowing him to appoint the place and time of meetings of the Council and to regulate the procedure of transacting bussiness therein, reduced the Executive Council to a state of weakness.

Nor were individual Members of the Executive Council free from the interference of the Governor-General. As Sir O'Moore says "the Ordinary Members of the Executive Council and the Extraordinary Member are at the head of one or the other Departments but they are not in charge of them, owing to the perpetual interference of the Governor-General and the ignorance of Members of Council as to the extent to which this power of interference will be exercised, for it depends upon his ability, leisure, or how the spirit moves him. His interference is consequently erratic and disconcerting to those nominally in charge of Departments, for he deals with matters small and great, local or Imperial, of which it is quite impossible he can have any sufficient knowledge."†

The scope for interference is vastly increased by the peculiar position of the Secretaries of the

* Indian Studies : 104. † Indian Studies: 119.

Departments. They are appointed by the Governor-General and they attend the meetings of the Executive Council whenever matters concerning their Departments are under consideration. They issue all orders and proceedings of the Governor-General in Council.

We must now refer to two more causes operating *outside* the Executive Council that helped the concentration of power in the hands of the Governor-General. Consider first his relation with the Secretary of State. The Viceroy is generally an English Peer of eminence weilding political influence in Parliament. He is in the fullest confidence of the Ministry and in constant communication with the Secretary of State. He also receives such correspondence as is "urgent" or "secret." His knowledge, therefore, of the views and opinions of the Home Authorities, and his personal acquaintance with and influence upon them give him an authority in his Council which his colleagues can never hope even to approximate.

Nor could the Local Governments offer any effective resistance to the encroachments of the Governor-General. Prior to the Reforms there was no clear-cut division of Central and Provinicial subjects, and all authority to deal with Local affairs was largely centralized in the person of the Governor-General.

Conclusion.—There can be thus no comparison between the position which the Governor-General held with regard to his Council in the days of the Company and that which he came to occupy since the Act of 1858. To quote once again the words of Sir O'Moore:—"The whole tendency of all Acts of Parliament previous to the transfer of the Government of India to the Crown was to associate the Governor-General with a Council of trained Administrators, who

had that good knowledge of India in which he himself was deficient, and who, being in an independent position, would be capable of informing, guiding, and—to a reasonable extent—controlling him, but who would not be in a position to thwart or obstruct him. It was never intended that the Governor-General should be a man of open mind and balanced judgement who would initiate as well as adjudge. He has now become the Agent of the Secretary of State, the independence of his Council is gone, and the Indian Empire is entrusted solely to their combined ignorance of India and is virtually handed over to a despotism."* Chailley also says "that the Executive Council of the Viceroy has become an assembly of specialists who hold office for five years. The theoretical equality with the Viceroy has, in practice, disappeared and the responsibility is becoming more and more concentrated in the hands of the Secretary of State and the Viceroy."†

(59) VII—IS THE GOVERNOR-GENERAL'S COUNCIL A CABINET ?

Before proceeding to consider the relations of the Government of India with the Provincial Governments it will not be inappropriate to make a digression here upon the question—whether Governor-General's Council is a Cabinet? Both Sir John Strachey and Sir George Chesney put forward the view that the Governor-General and his Council formed "a Cabinet of administrative heads of Departments." An examination of this view would clearly bring out the actual position of the Governor-General's Council.

Professor H. D. Traill has defined the Cabinet as

* Indian Studies : 100.

† Chailley: p. 392.

"a body consisting of (*a*) members of the legislature; (*b*) of the same political view and chosen from the political party possessing a majority in the House of Commons; (*c*) prosecuting a concerted policy; (*d*) under a common resposibility signified by collective resignation in the event of Parliamentary censure; and finally, (*e*) under a common subordination to one Chief Minister *viz.*, the Prime Minister."

Now we may look at the Cabinet from two points of view—the political *i.e.*, in its relation to the House of Commons, and the administrative. It is in the latter respect that considerable likeness may be discerned between the English Cabinet and the Indian Council. Both consist of Heads of Departments; both transact important business in meetings; both have Secretaries and Under-Secretaries who belong to the Permanent Civil Service. But here the resemblance stops. The contrast between the Cabinet and the Council is even more impressive when both are considered as executives related to their legislatures. The English Cabinet is the peculiar growth of Parliamentary Government in England. It is through the Cabinet that one or the other of the two great Parties in England which happens to have a majority in the House of Commons governs the country. Thus it is through the Cabinet that the people of the United Kingdom realise and enjoy the fullest measure of Responsible Government. The Leader of the dominant party is called the Premier and he is the keystone of the arch of the Cabinet. He selects his colleagues from amongst his followers and directs their policy and is responsible to Parliament for the whole Cabinet. Confidence of the House of Commons is the very breath of the nostrils of the Cabinet; above all, the

whole system of Government by the Cabinet is based upon conventions and understandings and not upon Acts of Parliament.

Now the Council of the Governor-General had nothing to do with Responsible Government in India. In fact the Government of India was entirely responsible to Parliament and not to the people of India. Consequently they could always depend upon the official votes in the Governor-General's Legislative Council, which were always in a majority (before the Reforms). Members of the Executive Council did not represent any political party; the majority of them were members of the Indian Civil Service and all held office for five years; though they followed a concerted policy they might not all hold to the same or similar political views. They were not called upon to, and generally did not, resign if their advice was not followed by the Governor-General. There is a wider gulf between the Viceroy and his colleagues than there is between the Prime Minister and his colleagues. Finally, the Governor-General in Council is a body created by the Statute; its procedure is bound by Rules and Regulations; and every Member places on record his views. In fact the practice of recording minutes on every subject that comes before the Council is regarded by many as the greatest safeguard against irresponsible and slipshod exercise of authority by that body. It is not so with the British Cabinet.

CHAPTER XII

ADMINISTRATIVE CENTRALIZATION—*Contd.*

PROVINCIAL GOVERNMENTS

(60) VIII—FORMATION OF THE PROVINCES

Turning next to examine the relations of the Government of India with the Provincial Governments, let us first of all consider the formation of the provinces. It is unnecessary to go over once again the ground covered in the two Chapters on the territorial expansion of the East India Company. The different system of provincial administration that came to be established were closely bound up with the course of that expansion. We may distinguish three stages in the growth of the provincial system. (1) Right up to the year 1833 the presidential form of Government consisting of the Governor and his Council—was the approved type, and the Act of that year proposed to provide the North-West Provinces which were then to be separated from the Presidency of Fort William with a Governor and Council. (2) The Directors, however, proposed to appoint a Lieutenant-Governor to the North-West Provinces and an Act of 1835 gave effect to the proposal. Bengal continued to be under the Governor-General of India, and its administration suffered on account of the prolonged absences of the Governor-General, all power falling into the hands of Secretaries appointed by him. The Act of 1853 authorised the Court of Directors to appoint either a Governor and Council for Bengal or ask the Governor-

General in Council to appoint a servant of the Company of more than 10 years' standing to be the Lieut.-Governor. The latter alternative was adopted. Unlike the Governors, the Lieut.-Governors were appointed by the Governor-General in Council from among the servants of the Company and they had no Executive Councils. (3) The Act of 1854 provided for a still simpler form of provincial government. It empowered the Governor-General in Council, with previous sanction of the Home Authority, to take by proclamation under his immediate authority and management any part of the Company's territories and provide for its administration. In practice, Chief Commissioners were appointed who were technically under the immediate authority of the Governor-General in Council and to them were delegated such powers as were not required to be reserved to the Central Government. The status of the Chief Commissioner was lower than that of the Lieutenant-Governor.

The three types being thus established and the Governor-in-Council form being confined to the old Presidencies of Madras and Bombay, the remaining provinces were given or deprived of one form or the other according as they gained or lost in territory as a result of territorial expansion or administrative redistribution, Thus the Punjab was at first placed under a Chief Commissioner; but when, after the Mutiny, the Delhi territory was added to it, it became a Lieutenant-Governorship. In Burma the amalgamation of the conquests made by the First and Second Burmese Wars led in 1881 to the whole province being placed under a Chief Commissioner. Upper Burma was annexed in 1886, and in 1897 Upper and Lower Burma were united and raised to the status of a Lieutenant-

Governorship. The Kingdom of Oudh, after annexation in 1856, was placed under a Chief Commissioner. In 1877 it was merged into the Lieutenant-Governorship of the North-West Provinces and the name of the two Provinces was changed into the United Provinces of Agra and Oudh by Lord Curzon in 1902. The Central Provinces formed in 1861 continued to be under a Chief Commissioner throughout though Berar was amalgamated with them in 1903.

The latest instance where redistribution of territories was made ostensibly for the purpose of better administration was the Partition of Bengal in 1905. To the old Presidency of Fort William, Assam had been added in 1826. It was separated from Bengal and placed under a Chief Commissioner in 1874. In 1905 the still unwieldy province of Bengal under a Lieutenant-Governor was divided into two Lieutenant-Governorships. The Western half retained the old name of Bengal and the old seat of Government at Calcutta, whilst the Eastern half was augmented by the addition of Assam, previously under a Chief Commissioner, and styled Eastern Bengal and Assam with its capital at Dacca.

Transfer of Capital.—But the Partition of Bengal caused grave dissatisfaction throughout the country and the error was remedied by extensive changes that were made on the occasion of the Coronation of His Majesty George V at Delhi in December 1912. The correspondence between the Governor-General in Council and the Secretary of State that preceded the Delhi Durbar shows that larger and deeper considerations than those of mere removal of a cause of popular agitation were at the root of the proposed changes. The transfer of the capital of India from

Calcutta was urged on two grounds—(*a*) The anomaly and inconvenience resulting from its being the capital of the Imperial and Provincial Governments. (*b*) The peculiar political situation arising in Bengal since the Partition made it desirable to withdraw the Government of India from its provincial environment. The advantages of the Capital being transferred to Delhi were urged to be three :—(*a*) Political : "The maintenance of British Rule in India depends on the ultimate supremacy of the Governor-General in Council and the Indian Councils' Act of 1909 itself bears testimony to the impossibility of allowing matters of vital concern to be decided by a majority of non-Official votes in the Imperial Legislative Council. Nevertheless it is certain that in the course of time, the first demand of Indians for a larger share in the Government of the country will have to be satisfied, and the question will be how this devolution of power can be conceded without impairing the Supreme Authority of the Governor-General in Council. The only probable solution of the difficulty would appear to be gradually to give provinces a larger measure of self-government, until at last India would consist of a number of administrations autonomous in all provincial affairs, with the Government of India above them all, and possessing power to interfere in cases of misgovernment, but ordinarily restricting its functions to matters of Imperial concern. In order that this consummation may be attained, it is essential that the Supreme Government should not be associated with any particular provincial Government. The removal of the Government of India from Calcutta, therefore, is a measure which will, in our opinion, materially facilitate the growth of local self-

government on sound and safe lines. It is generally recognised that the capital of a great Central Government should be separate and independent, and effect has been given to this principle in the United States of America, in Canada, and in Australia. Other advantages of Delhi might be more briefly stated thus; (*b*) its centrical position and splendid communications; its good climate for seven months of the year and its proximity to Simla would make the annual migration to the Hill Station less costly and tedious; (*c*) its great historical associations under Hindu and Mahomedan Rules.

The transfer of capital to Delhi was availed of to rectify the error of the Bengal Partition: the five Bengali-speaking districts *viz.*—the Presidency, Burdwan, Dacca, Rajshahi, and Chitagong were formed into a Presidency under a Governor-in-Council. (2) Bihar, Chota Nagpur, and Orissa were formed into a new province under a Lieutenant-Governor with a Legislative Council at Patna. (3) Assam was restored to a Chief Commissionership,

Similarly the power given by S. 3 of the Government of India Act 1854 was exercised in 1912 to transfer the city of Delhi and part of the Delhi District to the immediate authority of the Governor-General in Council to form it into a Chief Commissionership to be known as the Province of Delhi. The intention was to make the site of new capital and its surroundings an *enclave* occupying the same kind of position as Washington and the District of Columbia in the United States.

Though the territories were rearranged in 1912 upon principles of great political and constitutional significance, it is still true that the present political

map of India was shaped by the military, political, or administrative exigencies or conveniences of the moment, and with no conscious regard to the linguistic or racical affinities or wishes of the people concerned. The bearing of this circumstance on the question of Responsible Government in India will be explained in the Chapter dealing with that subject.

(61) IX—VARYING STATUS OF THE LOCAL GOVERNMENTS

British India consists of nine major Provinces and six lesser charges. Each of these 15 charges is called a Local Government. All alike are under the superintendence and control of the Governor-General in Council. But important differences existed between the status of the several classes of Local Governments. We may gather the Local Governments into five categories.

(*a*) *The Three Presidencies.*—Historically they were even prior to the Government of India. Madras and Bombay have always enjoyed the privilege of the Governor-in-Council form of Government. Bengal after many vicissitudes also came to have the same form since 1912. The Governors were appointed by the Crown, being usually persons of rank and experience in England. In an emergency the Governor can overrule his colleagues but otherwise decisions are those of a majority. Presidency Governments still enjoyed same relics of their former independence; they were Extraordinary Members of the Governor-General's Council if meetings of that Council should happen to be held in the Presidency; they had the right to correspond direct with the Secretary of State unless financial issues were involved; they could appeal to

him against orders of the Governor-General in Council; they had full discretion in selecting for important offices under them; and they were less liable to supervision than other provinces in the administration of their revenue and their forests.

The Four Lieutenant-Governorships.—They were constituted by acts of Parliament. N.-W. Province (1835,) Bengal (1834), Punjab (1859). Fresh powers to constitute Lieutenant-Governorships were given by the Indian Council's Act 1861. Under this Statute, Burma was raised to this status in 1897 and each of the two halves of partitioned Bengal in 1905. Lieutenant-Governors were appointed by the Governor-General subject to the approbation of the Crown. They must have served for at least 10 years in India. The extent of their authority may be declared by the Governor-General in Council. The maximum salary was fixed by Act of Parliament. Though the oldest and the heaviest charge (the U. P.) had no Executive Council, the newest province of Behar and Orissa had one. But the Executive Council did not materially alter the relation of the Lieutenant-Governor with the Government of India.

Central Provinces and Assam.—They came next. In theory the Chief Commissioner administered the province as a delegate of the Governor-General who was competent to give all necessary orders and directions for its administration. But, in practice, the powers entrusted to him were often as wide as those of the Lieutenant-Governor and with the creation of the Legislative Council in Assam and in Central Provinces any distinction in administrative methods vanished.

Baluchistan and North-Western Frontier Province.—These two form a group by themselves. They are

administered by Chief Commissioners who are also Agents to the Governor-General in respect of political relations in the adjoining tribal territories; they are in fact more directly than any of the foregoing provinces under the control of the Government of India, acting through its Foreign and Political Departments, both because political questions are of preponderent importance and also because they lack the financial resources and powers which the more settled provinces enjoy. Of the two, British Baluchistan was formed out of the territory extending for the most part over the tableland beyond the mountain range which forms the North-West boundary of India. The nucleus of this Province was the district of Quetta occupied in 1876 and purchased from the Khan of Khilat. To this were added certain districts acquired from Afghanistan in 1879 by the Treaty of Gandamuck and other adjacent vast territories. The whole was formed into a Chief Commissionership in 1887. The 2nd namely the North-West Frontier Province was created by Lord Curzon in 1901, for purposes of political security by detaching certain Punjab Districts.

Minor Administrations.—Under this category come Coorg annexed in 1834 and administered by the Resident in Mysore; Ajmere—ceded in 1818 is similarly administered by the Agent to the Governor-General in Rajputana. Andaman and Nicobar Isles—are administered by the Superintendent of the Penal Settlement of Port Blair as Chief Commissioner; Delhi—comprises a small tract enclosing the new capital.*

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* M. C. Report S. 121—23.

(62) X—FUNCTIONS OF THE GOVERNMENT IN INDIA

Having considered how the provinces were formed let us next consider the diverse duties of Government in India. "Government" means much more to the people in India than it means in the West. It is a paternal government. At a time when a great controversy was going on in England as to the functions of government, and when writers like Mill and Herbert Spencer were opposed to any extension of the sphere of State-intervention in the affairs of the individual, a system of Government was established in India which touched the people almost at every point. The British administration had to do many things here which in England are done by private effort and organization. The following passage "in the unadorned language of the Decentralization Commission" describes the various functions of the Government of India.*

"The Government (in India) claims a share in the produce of land, and save where, as in Bengal, it has commuted this into a fixed land-tax it exercises the right of periodical re-assessment of the cash value of its share. In connection with its revenue assessments it has instituted a detailed cadastral survey, and a record of rights in the land. Where its assessments are made upon large landlords, it intervenes to prevent thier levying excessive rents from their tenants, and in the Central Provinces it even takes an active share in the original assessment of landlords' rents. In the Punjab, and some other tracts, it has restricted the alienation of land by agriculturists to non-agriculturists. It undertakes the management of landed estates when

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* M. C. Report S. 45.

the proprietor is disqualified from attending to them by age, sex, or infirmity or occasionally, by pecuniary embarrassment. In times of famine it undertakes relief works and other remedial measures upon an extensive scale. It manages a vast forest property and is a large manufacturer of salt and opium. It owns the bulk of the Railways of the country and directly manages a considerable portion of them and it has constructed and maintains most of the imporant irrigation works. It owns and manages the postal and telegraph system. It has the monopoly of note-issue and it alone can set the mints in motion. It acts, for the most part, as its own banker, and it occasionally makes temporary loans to Presidency Banks in times of financial stringency. With the co-operation of the Secretary of State it regulates the discharge of the balance of trade as between India and the outside world, through the action of the Indian Councils' drawings. It lends money to Municipalities, Rural Boards, and agriculturists, and occasionally to the owners of historical estates. It exercises a strict control over the sale of liquor and intoxicating drugs not merely by the prevention of unlicensed sale, but by granting licenses for short periods only, and subject to special fees which are usually determined by auction. In India, however, the direct responsibilities of Government, in respect of Police, Education, Medical and Sanitary operations, and ordinary Public Works are of a much wider scope than in the United Kingdom. The Government has further very intimate relations with the numerous Native States, which collectively cover more than one-third of the whole area of India, and comprise more than one-fifth of its population. Apart

from the special functions narrated above, the Government of a sub-continent containing nearly 1,800,000 square miles and 300,000,000 people is itself an extremely heavy burden and one which is constantly increasing with the economic development of the country and the growing needs of populations of diverse nationality, language, and creed."*

(63) XI—ON THE RELATIONS OF THE CENTRAL GOVERNMENT WITH LOCAL GOVERNMENTS

It is obvious that the functions enumerated above cannot be discharged by a single organization. In every considerable country there are, in addition to the Central Authority, what are called Local Governments, and the relations of the two kinds of Government present some of the most difficult problems of practical administration. The Local units may be the result of the past history of the country *e.g.*, the Counties or Shires of England, or the Provinces of India, or they may be created by the Central Authority *ad hoc* for the purpose of administration *e.g.*, the Districts in the Indian Provinces or the Departments of France. Often the historical and the administrative boundaries may coincide.

We must thus distinguish between two separate inquiries that are involved in considering the relations between the Central and Provincial Authorities.

(*a*) The Provincial Government as a unit of Local Government on behalf of the Central Government.

(*b*) The relations of the Provincial Government with the Central Government.

We shall first take up the second kind of relation.

Of the functions mentioned in the last Section

* M. C. Report : S. 45.

some were discharged directly by the Government of India; the administration of the remaining was primarily vested in the Local Govenments as the Agents of the Central Government, the latter exercising general supervision and control.

The Sphere of the Government of India.—(1) Since the abolition of the three separate Military Commands of Bengal, Bombay, and Madras in 1893, the defence of the whole country was the most important function of the Central Government. (2) Foreign and Political relations, including in this term relations with Asiatic powers and tribes on the frontiers of India, administration of bastions of territory like the Frontier Province, and British Baluchistan, and finally relations with the Native States in India which were mainly though not solely the concern of the Central Government; (3) In a separate category came the administration of Tariffs, the Currency and the Exchanges, the Public Debt, Opium and also the great commercial services like the Post Office, Telegraph, and the Railway. (4) Audit and Accounting of the revenue and expenditure of the country on a uniform plan.

Responsibility for every thing else was shared in greater or lesser measure between the Central and Provincial Governments.

(64) XII—CENTRALIZATION

Now it was inevitable that as between the Central and Provincial Governments, all authority should tend to concentrate in the hands of the Central Governwent. Let us glance at the history of this process. The three Presidencies were independent of each other up to 1773. The Regulating Act of that year

gave the Governor-General of Bengal the right of controlling the two remaining Presidencies, and the Acts of 1793 and 1813 extended and emphasized this right. But on account of the difficulties of communication the Governments of Bombay and Madras enjoyed a very large measure of independance in administration and also exercised the right of correspondence with the Home Authorities. The question as to the proper functions of the Government of India assumed importance with the extension of the Territories of the Company and received special notice in the Charter Act of 1833 and the celebrated Despatch of the Court of Directors which is an exposition of the Charter Act. This Despatch pointedly refers to the difficulty of drawing a line of demarcation between the functions of a Central and Local Government. "It is impossible for the Legistature, and it is equally so for us in our instructions, to define the exact limits between a just control and petty, vexatious, meddling interference."

In view of the inherent difficulty of drawing a precise line between these relations the Despatch of 1834 relied upon the practical good sense of the Governor-General in Council to determine it. On the whole the tendency towards centralization gained the upper hand. Material development, improved communications, and the interest taken by Parliament in Indian Affairs strengthened the tendency. Let us consider how this tendency worked itself out in practice.

The powers of superintendence, direction, and control were exercised by the Government of India in matters of Finance, Legislation, and Administration.

Finance—The entire revenues of the country were

vested in the Governor-General in Council by the Act of 1858 and the Provincial Governments could raise or spend not a single rupee on their own account. Though under the system of Provincial Settlements (as begun by Lord Mayo in 1870, and perfected by Lord Hardinge in 1912) larger powers were given to the Provinces, their tutelage to the Government of India was still considerable.

Under that system (which will be more fully explained later on) the revenues of British India came to fall in three classes, (*a*) central, (*b*) provincial, (*c*) divided. The last represented those heads of revenue *e.g.* Land-revenue, Forests, Irrigation, Stamps, Excise, Income tax, the proceeds of which were shared (in varying proportions) by the Central and Provincial Governments. The financial 'settlement' came to mean the fixation of the share of provincial revenue. The whole theory of the provincial settlements was based not on what a province collected by way of revenue, but on what the province required for expenditure to keep up a certain standard of administration. Whatever surplus revenue the Central Government received from the more productive Provinces it spent upon the administration, development, or defence of the unproductive provinces like the Frontier Province, Burma etc. The ultimate responsibility of the Government of India for the solvency of each of the Provincial Governments made them very exacting in their control over provincial expenditure and their interest in the revenue collected by a Provincial Government made them equally watchful of the success or otherwise with which the province played the part of a tax-gatherer on their behalf. There were various ways of exercising this finan-

cial control: (*a*) all provincial budgets were carefully scrutinised and required sanction; no province could budget for a deficit, or could go below a minimum cash balance which it was always required to maintain with the Central Government. (*b*) Again, in matters of expenditure, the spending authorities were bound by a series of financial Codes of Instructions such as the Civil Service Regulations, the Civil Account Code, the Public Works Code etc. The Provincial Governments could not create new appointments or raise emoluments beyond a certain narrow limit; (*c*) a Provincial Government could not impose a new tax without the previous sanction of the Central Government; (*d*) nor could it borrow money, either in England or in India, for captial expenditure. The Government of India advanced mony to the Provincial Governments if at all the latter wanted to borrow.

In Legislation.—The absolute subordination of the Government of India to the Secretary of State in this matter has been referred to already. The control over provincial legislation followed as a corollary from that position. We shall trace in a subsequent Chapter the rise of the Legislative Councils in the Provinces of India. It is sufficient to state here that as between the Governor-General's Legislative Council and the Provincial Legislative Councils there was no definite line of demarcation like the one we find in the federal form of Legislature. Though the Provincial Council was theoretically competent to range over the whole field of legislation, its powers were restricted, in practice, in two or three ways. (1) In the first place the majority of the Councils were of later origin and growth. A great part of the legislative field, therefore, was occupied by the enactments of the Central

Legislative Council. Particularly a large body of laws dealing with important subjects like crime, marriage, succession, contracts, transfer of property, business and industries, and public health, was codified by the Central Council. (2) Though the Central Council generally did not consider laws of a Provincial application, there were many exceptions. Thus it passed the Deccan Agriculturists' Relief Act (Bombay) 1879; the Bengal Tenancy Act 1885; the Madras Civil Courts Act 1887; the Allahabad University Act 1887; the Lower Burma Court's Act 1900; and the Punjab Alienation of Land Act 1900. Not only could thus the Central Legislative Council encroach upon the Provincial field, but (3) every project of legislation in a Provincial Council had to be submitted to the Government of India and the Secretary of State for previous sanction; every important change in the Bill made during the passage of the Bill in the Council had to be similarly communicated and got approved of; and no Provincial Bill could become an Act before it was assented to by the Governor-General.

In Administration.—Here the control was too general and extensive to be described in a few simple propositions. In part the control was the direct result of the financial control which has been previously mentioned; in part it was due to the necessity of keeping administration uniform in a vast country like India. The Public Services which administered in the Provinces were recruited in England by the Secretary of State and the conditions of pay, promotion, leave, pensions etc. of them were fixed by that authority. Similarly in matters of business and industry, as the Provinces were brought into very close contact uniformity was demanded in such

matters as statistics, patents, copyright, insurance, income-tax, explosives, mining etc.

Further, as the Provincial Governments were mostly occupied with the routine work of administration it became the distinct duty of the Government of India to lay down policies of reform and progress in the shape of Resolutions. These often were based upon the Reports of Commissions or Committees appointed from time to time by the Supreme Government to investigate the working of Departments with which the Provincial Governments were primarily charged. Often a Commission recommended the appointment of advising or inspecting Officers at Head-quarters to co-ordinate the results of Provincial Administration. Lord Curzon was particularly fond of appointing such officers and often they were got from England. In addition to these occasions of interference which were common to all Provinces, the Supreme Government frequently exercised the right of issuing instructions to particular Local Governments in regard to matters which may have attracted their attention from the numerous reports and returns which each Government was required to submit to them. And finally, considerable interference resulted from the Central Government having to attend to the appeals made to them by persons dissatisfied with the action or orders of a Provincial Government.*

From this account of the relations between the Central and Local Governments it is abundantly clear that these relations were in no way "Federal relations." The Government of the country was one; the Provinces, in spite of the considerable powers they enjoyed, were strictly the 'agents' of the Central

* Report of the Decentralization Commission.

Government. Before the Provinces could exercise any real powers of their own, and before, therefore, Responsible Government could be introduced into them, they had to be relieved from a very large part of the control to which they were subjected—a process of emancipation to which we will revert in the next Part of this volume.

Effects of Centralization.—To the evil effects of over-centralization testimony is borne by many writers on Indian, Administration. Sir O'Moore Creagh said that the state of affairs was bad enough in 1909 when he joined the Government of India and became infinitely worse in 1914 when he left it.* And this, in spite of the recommendations of the Royal Commission on Decentralization! But such was bound to be the case. In the absence of clear definition of the relations between the Government of India and a Local Government, the extent of interference depended entirely upon the personality of the Governor-General and the amount of control exercised over him by the Secretary of State. The Governor-General may demand information upon any subject, and as the test of efficiency lay in its immediate production, the Departments perpetually called upon the Provincial Governments to submit information on all imaginable subjects, great and small.

(65) XIII—ADMINISTRATION IN A PROVINCE

Having considered the process of centralization, we must next proceed to give a general account of the administrative machinery in a province. In this respect the provinces were not of the same status, and the distinction between the Regulation and Non-

* Indian Studies.

Regulation provinces becomes of particular importance. But it is possible to give a picture of administration in one province which is roughly true of another province. The local Government administered through its Secretariat. For the purposes of revenue-administration, in every province except Bombay there existed a Board of Revenue or its equivalent, a Financial Commissioner. But in Bombay the Secretariat dealt directly with the Commissioners and Collectors. The easiest way of understanding the organization of a province is to think of it as composed of districts, which, in all provinces except Madras, are combined into groups of usually four to six disctricts, called Divisions, each under a Commissioner.

*Duties of the Collector.**—The chief district official is Collector-Magistrate. As the name suggests, he discharges two kinds of duties fiscal (or executive), and judicial. His principal duty is the collection of revenue, and has for that purpose a large staff of subordinates under him. But as he is the chief agent of the Local Government, other duties of a diverse kind have been cast upon him. He is responsible for many separate administrative Departments such as Excise, Income-tax, Stamp-duty etc. He collects statistics of the district, and submits a number of reports on all kinds of subjects. Until recent years he had an effective share in local Self-Government as exercised by Municipalities and Local Boards. In the earlier years of British administration he also discharged all those duties that are now performed by expert officers of special Departments *e.g.*, the Forest, Public Works, Jails, Education, Sanitation. In

* Separation of Executive and Judicial Functions by R. N. Gilchrist.

addition to these duties (which are executive in their nature), the Collector is a Magistrate. He is responsible for the peace of the district and to this end he is endowed with wide powers for the prevention of crime under the Code of Criminal procedure. The magisterial powers are of three grades—first, second, and third. The Collector is a first grade magistrate, and as such hears appeals from lower grade magistrates. His judgments are subject to appeals in the Sessions Courts. He has also certain judicial functions in relation to revenue collection, but they are purely administrative, the more legal cases going to the Civil Courts.

Before the organization of the Police as a separate Service, the Collector-Magistrate had direct and effective control over the district-police—Now, however, there is a Superintendent of Police in each District, subordinate to his departmental superior, the Inspector-General of Police, so far as the internal discipline of the force is concerned. But in the matter of the prevention and detection of crime, and in preparing cases etc., the Superintendent of Police has to work in close co-operation with the District Magistrate.

We need only refer to the sub-divisions into which a district is divided for administrative convenience. These sub-divisional officers (or their Subordinates) also are magistrate-collectors, though their powers are more restricted than those of the Collector-Magistrate.

Judicial Administration.—From the executive administration let us pass on to the judicial administration in a Province. At the head of the system is the High Court, both in civil and criminal matters. The lower courts are divided into two branches—District and Sessions Courts, and Magistrates' Courts. Normally in every district there is a District and Sessions Judge.

He administers both civil and criminal justice. The procedure of these Courts is, on their civil side, governed by the Code of Civil Procedure, and, on their criminal, by the Code of Criminal Procedure. Below the District and Sessions Judge, for civil work, are the Courts of Subordinate Judges and Munsiffs. In Criminal work, with the Sessions Judge may be associated Additional or Assistant Sessions Judges. These Courts try all cases committed to them, and they may inflict any punishment according to law, the death-sentence alone requiring the confirmation of the High Court.

Below the Court of the District and Sessions Judges are, for criminal work, the Courts of the Magistrates. The latter are, as we have seen, the Magistrate-Collectors, additional Magistrates, Assistant and Deputy Magistrates all of whom are executive officers, and enjoying varying powers as defined by the Code of Criminal Procedure. There are also Honorary Magistrates for trying petty criminal cases.

In the Presidency towns the functions are separated. There are special Courts—such as Small Causes Courts for Civil, and the Courts of Presidency Magistrates for criminal work.

History of the Problem—From the summary of revenue and judicial administration in the District as given above, it is apparent how the executive and judicial powers have been combined in the hands of the Collector-Magistrate and his subordinates. This combination has been the most controversial subject of Indian administration and has a long history. The earlier part has been already traced in connection with the work of Warren Hastings, Cornwallis, and Bentinck. It was Bentinck, as we saw, who again invested the Collectors with Magisterial powers. In 1837 a Committee

was appointed to inquire into the police system in Bengal, and on the recommendations of this Committee Lord Auckland proceeded, with some misgiving, to appoint separate Magistrates and Collectors in most districts.

There was now a reaction against this policy of separation, led by Lord Dalhousie. He complained how the Collectors, on account of revenue administration being reduced to a routine, had not enough work; and how, on the other hand, the Magistrates-who were young and raw officers—did not prove equal to the task of maintaining peace in the District. Proposals for uniting the two offices were, therefore, again put forward by Sir Frederick Halliday—the first Lieutenant-Governor of Bengal—and approved of by Lord Canning. After the suppression of the Mutiny, orders for the combination of functions, as recommended by Lord Canning, were issued by the then Secretary of State, Lord Stanley.

The recommendations of the Police Commission that was appointed in 1860 to reorganize the Police were in the same direction. This Commission recommended the appointment of an European Superintendent of Police for each district, responsible for the internal discipline and management of the police force to the Inspector-General of Police, but bound to obey the orders of the District Officer in all matters relating to the prevention and detection of crime, and the preservation of the peace of the district. The Commission recommended the general separation of police and judicial functions, the only exception being in the case of the District Officer. Act V of 1861 embodying these recommendations was passed for Bengal and similar Acts were passed for the other provinces. The whole controversy of combination and separation of functions was once again raised in 1872,

when the Code of Criminal Procedure was being amended, but thanks to the views of the then Law Member Sir James Stephen, the combination was retained.

Thus the Collecter-Magistrate continued to remain the most important official in the District, a symbol of the powers of the Provincial Government.

The subsequent history of the controversy will be resumed in another section.

(66) XIV—BUREAUCRATIC GOVERNMENT

We considered in the last Chapter how the Government of India, came to be subordinate to the Secretary of State for India and in this Chapter we saw how the Government of India, in their turn, excessively interfered with the Provincial Governments. In the last section we saw how the Collector-Magistrate was set up in each District for the discharge of multifarious functions on behalf of the Provincial Government. It would be worth our while to review the growth of this centralized and bureaucratic system, to study some of its tendencies, to expose its inherent defects, and to visualize its proper place in the progress of a people.

It was natural that when the country began to pass under British Rule, the new-comers should attempt to make their system of Government as much like the old system as possible. Now a prominent feature of Moghul Administration was the delegation of large powers to the local Subha in the exercise of which he was not much hampered by the Central Authority on account of his distance from the capital and also on account of the difficulties of communication. But though the Subha combined in himself Revenue, Judicial, and Magisterial functions he left the Village

Communities and the local Zamindars in the undisturbed enjoyment of their customary powers.

The first step towards centralization of authority under British Rule was taken when the "Collector," armed with powers as extensive as those of his Moghul prototype, was appointed in each District. But, unlike the Moghul Officer, the Collector directly managed Revenue and Judicial functions—and the Village Communities and Panchayats being deprived of their *raison de tre* soon fell into desuetude.

The Collector continued to exercise plenary powers for many years. He moved among the people, personally heard their complaints, and dealt out justice on the spot. He had few occasions to refer to his superiors; and the absence of roads left him unfettered in the exercise of his powers. Those were the golden days of the Civil Service. But soon a change came over his position. Railways, Post, and Telegraphs vastly improved communications. Parties aggrieved by the action of the District Officer or his subordinates could now make use of their wide powers of appeal. At the same time, a host of Inspecting Officers began to tour the country. The District Officer thus found himself deprived of a large part of his former freedom, and more and more bound down by Rules and Directions which the Local Government began to issue on the recommendation of its Inspecting Officers. At the same time functions which were formerly discharged by the Collector *e.g.* irrigation, public works. agricultural improvements, forests, police etc. came to be taken out of his hands and entrusted to separate Departments. Thus between constant inspection on the one hand and departmentalization on the other the District Officer was losing that extensive power which he

originally possessed, and being increasingly absorbed in mere desk work, had fewer opportunities of coming in contact with the people. But though as between the Secretariat and himself the Collector was playing a losing game, he kept an effective control over the exercise of Local Self-Government by the people. And nothing is a better proof of bureaucratic centralization than the almost negligible progress made in Local Self-Government by the people during the long period of 50 years since the days of Lord Ripon. All power came to be centered in the hands of the Secretariat at the Provincial Head-quarters. "The real power, the sceptre of authority, lies with the Secretariats, and the Heads of Departments under whose standing or special orders the District Officers move and act like Marionettes, dancing to strings pulled by an unseen hand. And now the metamorphosis is complete. The Government is a bureaucracy. Impersonal has superseded personal absolutism—the absolutism of a machine, that of the man."*

In fact the growth of Secretariats at the cost of the other limbs of Government is a feature of all bureaucracies. They thrive upon correspondence. That they had succeeded in sucking the District Officers dry of all real power was well pointed out and explained by the late Mr. Gokhale. He assigned three reasons for the great change in the position of the Collector (1) The creation of Commissionerships; (2) the multiplication of the Departments; (3) the gradual evolution of a uniformity of administration which rendered Secretariat control both necessary and possible.

Gokhale deduced the following defects from the

* Houghton: 18.

weakening of the Collector's position; (*a*) owing to excessive Secretariat control the Collector was unable to grant redress on the spot; (*b*) owing to multiplication of Departments harassing departmental delays became inevitable in the disposal of matters which properly speaking ought to be disposed of on the spot under the authority of the Collector; (*c*) owing to the spread of English education in the country and other causes, there was not that mastery of Indian languages attempted by Collector which he used to acquire formerly; (*d*) the writing work of the Collector increased enormously; he was tied largely to his desk, and therefore unable to acquire that acquaintance with the requirements of the people which his predecessors were able to acquire; (*e*) his back was stiffened by the growth of political agitation in the country, and he was, so to say, driven more within himself.

While this change in the position and powers of the Collector was going on in India, another change was silently proceeding with respect to the classes of society from which candidates for the Civil Service came to be recruited in England. In the days of the Company, under the system of 'patronage', members of a limited number of families that had a traditional connection with India came out to serve the Company. But when the Indian Civil Service was thrown open to competition in 1853, a subtle change was perceptible. Not family connections or aristocratic traditions but mere intellectual qualities became the sole test for entrance into the Civil Service. Now the system of recruiting officials on a competitive basis has many undoubted advantages and has been adopted in most Western countries. But

it has its defects which are likely to be more prominent in a country like India where the ideas of the people about 'Government' are still old-fashioned. Here qualities of heart—rather than those of head—make a 'successful' administrator, and they are the very qualities which no competitive examination can test. Some critics of Indian administration have found in this difference between the old and the new type of the I. C. S. one explanation of the rise of discontent in India.

The Provincial and the Central Secretariats were almost wholly recruited from the Members of the Civil Service after they had had a few years' experience of direct administration in the districts. And now it is easy to realise the full significance of the oft-repeated complaint that the whole Government of India was ridden by the Members of the "Heaven-born" Service, that, in fact, *they* were the Government of India. Interesting sidelight is thrown upon the power and position which they had built for themselves. The young Civilians, as soon as they landed in India found themselves the members of a sacrosanct body. Their natural inclination to remain aloof from the people was not now corrected by the former salubrious practice of moving among the people, but was rather strengthened by the desk-work to which they were condemned, and by the evidence of skill in which they were promoted. Easy communications, the amenities of 'Dak Bungalows' when on tour, and their frequent transfers to and from the Secretariats to "life in the plains" completed the process of alienation. The practice of the annual migration or exodus to the Hills contributed as nothing else did to this estrangement. From their "Olympian heights" the Official community could afford to look

down upon the vast mass of the people on the plains. They ceased to have a living touch with the new aspirations and ideals that were steadily growing among the people as a result of the spread of education.

But in addition to the alienation of the sympathies of the people, the great evil of a bureaucracy is its dwarfing influence upon the personal and national ideals of the people. "Nations advance, a people becomes great not through docility and submissiveness, but by the free play of aspiration and thought, the liberty to advance along all lines of legitimate progress in self-respecting independence of spirit. That is the very antithesis of the bureaucratic ideal. Efficiency of the machine, not the living organic growth of a people; progress, if such there be, on the initiative of the Government, not progress on the initiative of the people; such are its watchwords."*

In fact, it is necessary to carefully bear in mind the true role of a Bureaucratic Government in the political progress of a people. "It finds its true function in the provision of a kind of training school to bridge over the gap between autocracy on the one hand, and some popular Government on the other, to form a nexus, as it were, between the barbaric pomp of the mediæval monarch and the sober institutions that characterise democracy. For the arbitrary rule of one it substitutes ordered rule and precedent. In place of the perplexities and fierce uncertainties that dog the steps of even the most brilliant autocrat, it enables men to forecast with safety the future and to earn their living in confidence and quietude. It provides the smooth and well-oiled machinery essential for those social inquiries and

* Houghton: 58.

ameliorations which the modern conscience so insistently demands. In a word, it is the portal to modern democracy."*

That the Anglo-Indian Bureaucracy, in spite of the many hard things said against it, admirably succeeded in giving to the country a perfect administrative machine must be admitted. But too much emphasis was laid upon the promotion of mechanical efficiency, and little upon the participation of Indians in the machinery of government. This great danger of the bureaucratic form of government was realized by Lord Minto, as it was realized before him by Lord Ripon. Both tried their best to mitigate that danger, but with little success. Bureaucracy was stronger in the days of Minto than it was in the days of Ripon. Yet when everything has been said against the Bureaucracy we must maintain that the Bureaucracy laid those foundations upon which the structure of Responsible Government is now to be raised, and in the raising of that structure also, the Bureaucracy will undoubtedly play an important part.

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* Houghton : 168–69.

CHAPTER XIII

DECENTRALIZATION

(67) 1—DEFECT OF BUREAUCRACY

We saw in the preceding pages how after the British possessions in India had been consolidated, a rigid bureaucratic form of administration *i.e.*, "an administration by officials, conducted with the aid of official light, and under merely official control"* came to be established. The chief features of the administration thus set up were the following:—

(1) The complete subordination of the Local and Central Governments to British Parliament through the Secretary of State.

(2) Domination of the Indian Civil Service in most Departments of Government.

(3) Efficiency—not the consultation of popular wish or welfare—the goal of Government:— As seen in

(*a*) The exclusion of the people from any real share in administration or legislation.

(*b*) The decadence of indigenous institution of Self-government—the Village Community or Panchayat.

(*c*) Unpopular redistribution of Provinces—as of Bengal.

(*d*) Enormous growth in public taxation and expenditure; particularly the growth of Military expendture.

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* Gokhale : 482.

(e) Backwardness of what are called nation-building activities of the state *e.g.*, Education, Sanitation, Temperance, Co-operation, etc.

(*f*) Industrial backwardness; agricultural stagnation; poverty; famines; epidemics; alarming vital statistics.

(*g*) Attempts to thwart political agitation by restrictions upon freedom of press, speech, and movement; increase in sedition and anarchist crime; repressive measures.

Thus efficiency, the sole *raison de tre* of bureaucracy, seemed to have very serious limitations.

Gokhale's verdict.—The inevitable failure of a Bureaucracy to attain *real* efficiency was thus pointed out by the late Mr. Gokhale:—

"The efficiency attained by a foreign bureaucracy uncontrolled by public opinion, whose members again reside only temporarily in the land in which they exercise official power, is bound to be of a strictly limited character, and it can never compare with that higher and true efficiency which is possible only under a well-regulated system of self-government. The present form of administration in India is a strongly centralized bureaucracy in which the men at the centre hold office for five years only. They then leave the country, carrying away with them all the knowledge and experience of administrative matters acquired at the expense of the country, and their places are taken by new men, who, in their turn retire similarly after five years. As things are, there is no one ever in the Government who is permanently interested in the country as only its own people can be interested. One result is that the true well-being of the people is

systematically subordinated to militarism and service interests of English mercantile classes; and though under such a system peace and order may be maintained, and even a certain amount of efficient administration secured, the type of efficiency is bound to remain a low one always. Moreover, it is clear that even such efficiency of administration as has been attained in the past by the existing system, is bound to suffer more and more, owing to the growing antagonism of the governed to that system. No man for instance, ever laboured more strenuously for mere efficiency than Lord Curzon, and yet, never was discontent deeper and more wide-spread than when he left India, and no Viceroy of recent times has had to succeed to a greater legacy of difficulties than Lord Minto."*

(68) II—DAWN OF A NEW ERA

It would seem then that the advent of Lord Minto and Lord Morley into the orbit of Indian Administration marked the dawn of a new era. Many events conspired to give point to the transition. Lord Curzon's failure meant the failure of the Bureaucratic form of Government. The Liberal party came into power about the same time with Morley as the Secretary of State and "it is not too much to say that to him belongs in an exceptional degree the credit of saving the cause of progressive constitutional reform in India."†

Remedial Measures.—The measures adopted by Lord Minto and Lord Morley to mitigate the evils of Bureaucracy may be grouped under two heads.

Firstly, Decentralization of authority by

* Gokhale: 989. † Thakore: 150.

(*a*) giving wider powers to the Provincial Governments and

(*b*) the encouragement of Local Self-Government.

2ndly, Association of Indians with Administration by

(*a*) the increased employment of Indians in the Public Services.

(*b*) The appointment of Indians to the Council of the Secretary of State in England and the Executive Councils in India.

(*c*) Above all, the enlargement of the Legislative Councils,

In this Chapter we shall consider the measures of Decentralization, reserving for the next a consideration of the policy of Association.

(69) III—DECENTRALIZATION

The Royal Commission on Decentralization appointed during the time of Lord Minto presented its Report in 1909. It surveyed the relations between the Indian and Provincial Governments and also between the latter and the authorities subordinate to them, and recommended a series of measures having for their object the relaxation of control by higher authorities and the simplification of adminstrative methods.

It was particularly in the sphere of finance that considerable improvements were effected—improvements suggested by the Commission and given effect to by the Government of Lord Hardinge. This great statesman, indeed, foreshadowed the grant of provincial autonomy in his Durbar Despatch, and paved the way for it by the transfer of capital to Delhi.

(70) IV—HISTORY OF PROVINCIAL SETTLEMENTS

Sir John Strachey, to illustrate the utter dependence of the Provinces upon the Central Government for funds, wrote: "If it became necessary to spend £20 on a road between two markets, to rebuild a stable that tumbled down, or to entertain a menial servant on wages of 10 shillings a month, the matter had to be formally reported for the orders of the Government of India."*

This continued right up to the year 1871. The provinces having no independent resources of their own and expecting to get whatever they wanted from the Government of India, had no motives for economy in expenditure or care in the collection of revenue and there was an amount of friction between them and the Central Government over trifling details. The first step in Decentralization was taken by the Government of Lord Mayo. Certain heads of expenditure *e.g.*, Jails, Registration, Police, Education, Medical Services, Printing, Roads, etc., were transferred to the control of the local Governments with the revenue under the corresponding heads, to be supplemented by a fixed annual Imperial grant. By this measure a certain degree of fixity in Imperial finance was secured and the local Governments were given absolute freedom for allotting the Imperial grant as they liked.

But this arrangement did not offer an effective inducement to the Provinces to develop the revenues collected in their territories and to secure economy. Lord Lytton's Government, therefore, chiefly as the result of the recommendations of Sir John Strachey, made the following improvements in 1877-78 :—

* Strachey : 113.

(1) Certain additional heads of expenditure *e.g.*, Land Revenue, Excise, Stamps, General Administration, Stationery and Printing, Law and Justice, were transferred to the Provincial Government.

(2) For the administration of these additional services, instead of making an increase in their permanent grants, a share in the revenues realized under certain heads was assigned to them *e.g.*. Excise, Stamps etc.

Thus for the first time was introduced into Indian finance the classification of revenue heads into "Indian," "Provincial" and "Divided." It generally happened, however, that the assigned revenues of the provinces fell short of their required expenditure, and the deficit had to be made good as before, by a fixed lump *annual* grant.

This led to annual bargaining between the Central and Provincial authorities, and as the fixed grant formed a considerable portion of the resources of the provinces, the resources could not increase with sufficient elasticity. In the days of Lord Ripon, therefore, his Finance Minister Major Baring (afterwards Lord Cromer) (*a*) instead of making settlements annually, kept them in force for five years; (*b*) Instead of making up the provincial deficit by an Imperial grant, a certain percentage of Land Revenue was made over to the Provinces. Thus the annual bickerings were stopped and provincial revenues made more elastic. Settlements on these lines were made in 1882, 1887, 1892 and 1897. Though the Provinces were now better off than they were thirty years previously, their position was most unsatisfactory. "In 1900-1901, out of a total gross revenue of £75 millions, the provincial Governments were entrusted with the expenditure of

£18 millions. From this income they had to provide for the greater part of the expenditure incurred in the various Departments of the Civil Administration entrusted to them, for the collection of land revenue, for the Courts of Justice, Jails, Police, Education, Medical Services, civil buildings and roads, and for a multitude of other charges."*

It was the practice of the Government of India to resume, at each time of the revision of the settlement, whatever surplus revenue accrued to a province during the period. This killed any motive for economy, as the Provincial Governments knew that if they economized in one direction to accumulate money for other needs their savings were imperilled while their reduced standard of expenditure would certainly be taken as the basis for the next settlement.

The Government of Lord Curzon, therefore, made the settlements *quasi-permanent* in 1904. As at that time the Central Government was having a series of surpluses, it diverted a part of this surplus, in the shape of special grants, to the Provincial Governments for the improvement of Police, Agriculture, Education, Local Self-Government, etc.

The final step in the history of these settlements was taken in 1912 when Lord Hardinge's Government declared the settlements to be permanent. At the same time certain improvements were made in these settlements. (*a*) Though the burden of famine relief was thrown entirely upon the provinces the Government of India showed willingness to consider the grant of assistance to a province in the event of grave embarrassment. (*b*) Fixed grants assigned to the provinces to make up their deficits were, wherever

* Strachey: 115.

possible, replaced by growing revenues. (*c*) Special grants of a non-recurring character were to be continued as before, but care was to be taken to see that they did not unduly interfere with the Local Governments and that they were given with due regard to the wishes of the Provincial Authorities. (*d*) Minor adjustments were made to ensure that each province got its proper share of revenue. Thus Forest Revenue and expenditure were made wholly provincial in all provinces, Excise was wholly provincialized for Bombay, and to the extent of three quarters in the Central Provinces and the United Provinces. Land revenue was made half provincial in the Punjab and $\frac{5}{8}$ provincial in Burma.

Though by this arrangement the Provinces got larger revenues and greater freedom in their application, certain restrictions upon them were still continued. Thus they could not budget for a deficit, and they had to maintain a minimum cash-balance with the Government of India. Nor had they powers of taxation or borrowing. But the principle on which these provincial settlements were based—the subordination of the province to the Central Authority—had been carried to the last *finesse* and had to make room for another principle namely financial autonomy for each province. We shall take up this subject in its proper place.

Decentralization in administration followed as a result of decentralization in finance. Nor did this process stop with the Provincial Governments. They, in their turn, were called upon to foster Local Self-Government, with what results, will be considered in the section following.

(71) V—LOCAL SELF-GOVERNMENT

We considered in an earlier Chapter how the Village Communities—the immemorial institutions of self-government in India—decayed under the pressure of British Rule. The Local Self-Government that we propose to study here owed its origin to the desire of the Central Authority for what is technically called Deconcentration as distinct from Decentralization, *i.e.* the handing over of such functions as were best managed by local bodies to them.

Faint Beginnings—It is true that in the Presidency Towns, Corporations—consisting of a Mayor and Aldermen according to the English model—had been established at a very early date, but it was only after 1861 that Corporations consisting of the elected representative of the rate-payers came to be established in them. The beginnings of Local institutions outside the Presidency Towns upto the year 1865 were faint. An Act of 1850 had provided for the voluntary constitution of Town Committees and the levy by them of certain indirect taxes, but few towns came forward to avail themselves of powers under that Act. Meanwhile towns were increasing in population and their sanitary condition was very unsatisfactory. The Towns Improvement Acts that were passed about 1865 in the different provinces were meant for the appointment of Commissioners who were to bring about improvements in Municipal affairs.

Lord Mayo's Contribution—But it was in connection with the scheme of financial settlements with the provinces begun by Lord Mayo in 1870, that the importance of Local Self-Government was for the first time emphasized. He said in his Resolution "Local

interest, supervision, and care are necessary to success in the management of funds devoted to education, medical charity, and local public works. The operation of this Resolution in its full meaning and integrity will afford opportunities for the development of Self-Government, for strengthening Municipal institutions, and for the association of Natives and Europeans to a greater extent than heretofore in the administration of affairs."

Advance under Lord Ripon—It was in Lord Ripon's time that the first really important and decisive step was taken in respect of Local Self-Government by placing it on its true basis, "not merely as a means of devolution of authority in administration and in decentralization of financial resources, but as a means of popular and political education by which alone progressive communities could cope with the increasing problems of Government."*

As Lord Ripon explained, in advocating the extension of Local Self-Government and the adoption of that principle in the management of many branches of local affairs, he did not suppose that the work would be in the first instance better done than if it remained in the sole hands of Government District Officers. It was not, primarily with a view to improved efficiency in administration that the principle of Local Self-Government was put forward and supported. It was chiefly desirable as an instrument of political and popular education. Lord Ripon himself had no doubt that in course of time, as local knowledge and local interest were brought to bear more freely upon local administration, improved administration would in fact follow. Every year the task of administration became

* Iyengar: 118.

more onerous and His Excellency-in-Council argued that it was a sheer waste of power not to utilize the growing class of intelligent public-spirited men in the land. He attributed the failure of local institutions in the past to their being "over-riden and practically crushed by direct though well-meant, official interference."

(1) Regarding the mode in which Local Boards were to be generally constituted, the Resolution laid down the principle "that while maintaining and extending, as far as practicable, the plan of municipal government in the cities and towns of each province, the Local Governments will also maintain and extend throughout the country, in every District where intelligent non-official agency can be found, a net-work of Local Boards, to be charged with definite duties and entrusted with definite funds." The area of jurisdiction alloted to each Board was in no case to be too large. It was to be such as would ensure local knowledge and local interest, and as such the Taluka was recommended as a suitable unit. The Taluka Boards, may, in their turn be combined under a District Board.

(2) In the composition of Boards—both rural and urban—"preponderance of non-official members" was advocated. The principle of election was to be followed wherever practicable, to be supplemented by a system of choice *i.e.*, nomination. The Chairmen of the Boards were to be, as far as possible, Non-officials elected by the Boards.

(3) Regarding the control to be exercised over the Local Bodies, the Resolution laid down the principle "that the control should be exercised from without rather than from within. The Government should

revise the acts of Local Bodies but not dictate them. The Government should have two powers of control. In the first place, their sanction should be required in order to give validity to certain acts, such as the raising of loans, the imposition of taxes, alienation of muncipal property etc. In the second place, Government should have power to interfere either to set aside altogether the proceedings of the Board in particular cases, or in the event of gross and continued neglect of any important duty, to temporarily suspend the Board.

(4) Regarding the resources at the disposal of the Boards, the Resolution recommended that certain local sources of revenue should be made over to them. They should be supplemented by grants from the provincial revenues.

Review of Progress During 1882—1912.—In spite of the liberal principles underlying the Resolution of Lord Ripon the progress of Local Self-Government during the next thirty years in different parts of India was most discouraging.

The Presidency Towns: Bombay had always served as the model for the other Presidency Towns. Its first Corporation consisted of a Municipal Commissioner (a Government Official) and nominated Justices of the Peace who were entirely at his mercy. It was in 1872 that for the first time, and as a result of the suggestions of Mr. (afterwards Sir) P. M. Mehta, the Corporation came to consist of Members half of whom were elected by the rate-payers, the other half being made up of J. P's. and nominees of Government. The Act of 1888 increased the number of elected Members to 72 of whom only 16 were nominated by Government, the rest being elected by the rate-payers, the J. P's., the University, and the Chambers of Commerce. The

Corporation had a Standing Committee of 12—eight elected and four nominated—with an elected President under whose directions the work of administration was carried on by the Municipal Commissioner who was a nominated Official belonging to senior rank in the Indian Civil Service.

The Calcutta Corporation was remodelled on the Bombay pattern in 1876 when it came to consist of 48 elected and 24 nominated Commissioners. But the nominated President possessed preponderating power. Lord Curzon reduced the number of Commissioners to fifty of whom 15 were nominated by Government, the rest being elected by the rate-payers, the Chambers of Commerce and the Port Trust. This Corporation also had a Standing Committee of its own but it was not at all quite as powerful as that of Bombay.

The principle of election by rate-payers was introduced in the Madras Corporation by an Act of 1878. An Act of 1904 increased the number of Corporators to 36 and created a Standing Committee with a President.

In addition to these Corporations the Presidency Towns had two other Bodies for specific purposes, the Improvement Trusts—for the purpose of reclamation of land, road widening, improvement of tenements of the labouring classes, etc, and the Port Trusts for the improvement of the Ports. In 1911 the aggregate income of the Municipalities of Bombay, Calcutta, Madras and Rangoon was 2½ crores. The incidence of taxation per head was highest in Rangoon 11·61 Rupees, 10 Rupees in Bombay, 8½ Rupees in Calcutta and 3 Rupees in Madras.

Municipal and Rural Boards.—Turning to Municipal and Rural Boards, we find that there were in 1911, 713

Municipalities, 197 District Boards and 517 Sub-district Boards. The population in municipal areas was about 16 millions *i.e.* about 7 per cent. the remaining 93 per cent. being entirely rural. The taxation per head in Municipal areas was about two rupees in Bombay, Punjab, Burma, and the North West Frontier, $1\frac{3}{4}$ Rupees in the Central Provinces, a little over $1\frac{1}{2}$ in the United Provinces and Bengal, and only $1\frac{1}{3}$ in Madras. In Bombay, the United Provinces, the Punjab, and the Central Provinces, a large part of the Municipal revenue was derived from Octroi. In other provinces there was no Octroi. There was in Madras, however, a toll levied on roads, and Bombay and Assam also levied it. The principal revenue in Madras and Bengal was derived from taxes on houses and lands, Bombay, Central Provinces and Burma also levying such taxes. In some provinces there were taxes on professions and trades, and in all, on carts and vehicles.

The Municipal Boards had powers of taxation within certain limits with the previous sanction of the Local Government. The Rural Boards had no powers of taxation. Their sole source of income was the one-anna cess on Land Revenue and came to about $2\frac{1}{3}$ crores, for the whole of British India. Another $2\frac{1}{2}$ crores was received from various other sources including a small grant from Government. Thus, the incidence of taxation was about 4 annas per head. Even of this cess all the Local Boards did not get the whole amount. Some of them *e.g.* those in the United Provinces, the Central Provinces, the Punjab, etc. had to make contributions to the Provincial Governments for special services.

Their Functions.—Turning now to the functions of these bodies, we may say that, briefly, they were the care of health, of education, and of roads or

communications. Enumerating them in greater detail we find that Municipalities were entrusted first with the duties of construction upkeep and laying out of streets and roads, and the provision and maintenance of public and Municipal buildings; secondly, the preservation of the public health principally with reference to sanitation, drainage, water-works, provision of medical relief, vaccination, and measures against epidemics; and thirdly, education, especially in the primary stage, the upkeep of medical institutions, sanitation, water-supply, vaccination, veterinary work, construction and maintenance of markets, and charge of pounds and ferries.

Summary and Criticism.—It is clear from the foregoing short account that Local Self-Government had made no substantial progress in the country. The funds that were allotted to the Local Boards were inadequate for the many functions for which they were made responsible. The Bureaucracy did not appreciate the value of these Boards. The District Officers—who were generally the Chairmen of the Rural Boards—had everything in their own way. The proportion of ex-officio and nominated members was very large. Further, the Boards had very limited financial powers. They could neither tax nor borrow on their own account. The Commission on Decentralization recommended considerable increase of the elective principle in the constitution of the Boards and the transfer to them of certain minor sources of revenue. The question of Local Self-Government received some attention when a special Department was created about 1908 to deal with it and entrusted to a Member of the Executive Council of the Governor-General. Also special grants—though of a non-recurring character—were made to

Local Bodies for the improvement of water-supply, sanitation etc. and the Government of Lord Hardinge, in a comprehensive Resolution that was issued in 1915, and embodying the views of the Government of India on the Report of the Decentralization Commission, assumed a most sympathetic attitude towards Local Self-Government. After going over the various obstacles that had prevented the Development of Self-Government in the past and after indicating the lines on which the Municipal Boards, the District and Taluka Boards, and the Village Panchayats and Unions were to advance in future, the Resolution declared that its object was to mark a definite advance in devolution and political education. The Resolution was framed in "a spirit of prudent boldness, calculating risks but not afraid to take them in the cause of progress."

The advance of Local Self-Government after the Announcement of August 1917 will be dealt with in a subsequent chapter.

CHAPTER XIV

ASSOCIATION

(72) I—INTRODUCTORY

"Association" is the second principle by which the rigour of Bureaucracy was rendered less intolerable in practice. It assumed three forms. (*a*) Employment of Indians as Member of that Bureaucracy; secondly (*b*) their association in Councils for the making of laws; and finally (*c*) their appointment in Councils whence they could—though only in a very imperfect manner—direct the policy of the Bureaucracy.

We shall consider each of these forms in the following sections:—

(73) II—EMPLOYMENT OF INDIANS IN THE PUBLIC SERVICES.

We must here consider how far the foreign Bureaucracy allowed itself to be leavened by the introduction of the Indian ingredient in its mass. It will be seen that until within recent years the results achieved fell far short of the requirements of the situation.

There are four or five landmarks in regard to this matter in the history of British Rule. In an earlier section reference was made to the pledge given by the Charter Act of 1833 that there would be no distinction of race in making appointments to the public services and that pledge was solemnly renewed by the Proclamation of 1858. The institution in 1853

of competitive examination for entrance into the Indian Civil Service to be held in London by its very nature excluded most Indian candidates. Curiously enough a Committee appointed by the Secretary of State in 1860 to inquire into this question recommended the holding of simultaneous examinations in England and India for recruitment to the Civil Service. No effect was given to this recommendation. As a result of the spread of higher education in India and thanks to the agitation carried on in England by Dadabhoy Nowroji, the question was reopened in Parliament in 1870 and an Act of that year contained the clause empowering the Government of India to frame rules, subject to the sanction of the Secretary of State in Council, "for the employment of the Natives of India, of proved merit and ability, in the Civil Service of his Majesty" without requiring them to appear at the competitive examination in London. The method adopted for making appointments under these rules was that of nomination and did not give the best results. Again, the appointments thus made were kept separate from those made by open competition; they formed the "Statutory Civil Service" as distinguished from the "Covenanted Civil Service" which was regarded as of altogether a superior status. As educated Indians were entirely dissatisfied with these arrangements, the Public Service Commission of 1886 was appointed with the declared object of devising means for the larger admission of Indians in the Civil Service. The final orders of the Secretary of State on the Report of this Commission were passed in 1891, and they made the position of Indians worse than what it was prior to the appointment of the Commission. (1) The Statutory Sevice Rules of

1879 had reserved a sixth of the total recruitment to the Civil Service for Indians. This meant about 160 posts out of a total strength of 1000 posts. But as the result of the Commission's recommendations only between 90 and 100 posts were abstracted from the Indian Civil Service and reserved for Indians. (2) Secondly, the Commission recommended the division of the Public Service into Imperial and Provincial. This inflicted a twofold hardship upon Indians. A stamp of inferiority was placed upon the Provincial Service and secondly, in many Departments *e.g.* Public-Works, Education, etc., where formerly the Indians were on a footing of equality with the Europeans (of course with a difference as regards pay, etc.) they were reduced to an inferior status. It is important to understand the injustice of this recommendation. In many Departments, at first, Indians and Englishmen were on terms of equality both as regards pay and status. The next step was the reduction of pay to two-thirds in the case of Indians, though the equality of status was not questioned. The constitution of the Provincial Service—inferior in every respect to the Imperial Service—finally created a permanent inequality as between Indians and Englishmen that led to grave dissatisfaction. In 1893 the House of Commons adopted a Resolution in favour of holding simultaneous examinations in England and India. This was again largely due to the efforts of Dadabhoy, who was then a Member of Parliament. But the Resolution proved a dead letter. The Bureaucracy did not budge an inch to give effect to it. Nothing was done for the next twenty years when, as a result of a Resolution moved in the Imperial Legislative Council, a Royal Commission on the Public Services

was appointed in 1912. Its Chairman was Lord Islington, and Mr. Ramsay MacDonald was one of the Members. The Indian element was represented by Gokhale (who unfortunately died before the preparation of the Report), Sir M. B. Choubal, and Justice Abdur Rahim of Madras. Though the Report was submitted to Government in August 1915, its publication was postponed till January 1917 on account of the prevalence of the Great War. Of the recommendations of this Commission not even a short account need be given. "The War has raised the pitch of Indian expectations to an extreme point and a Report which might have satisfied Indian opinion two years earlier was generally denounced in 1917 as wholly inadequate."*

(74) III—GROWTH OF THE LEGISLATIVE COUNCILS (UP TO 1909)

We must next turn to the association of Indians in the making of laws. We have seen already how the executive authority *i.e.* the Governor-General in Council passed Laws known as Regulations prior to 1833. The Act of that year gave to India her first rudimentary Legislature. It consisted of the Executive Council of the Governor-General with the addition of a fourth Member—the Law Member. At the same time the Governors-in-Council of Madras and Bombay were deprived of their law-making power. But this concentration of all legislative power in the Governor-General in Council was found to have defects of its own. The Members of the Governor-General's Council belonged to the Bengal Service and their lack of local knowledge was felt to be a serious drawback to the

* M. C. Report : S. 13.

Council's handling of Madras or Bombay questions. To Lord Dalhousie belongs the credit of differentiating the Legislative Machine much more decisively from the Executive. The Act of 1853, for which he was in great part responsible, placed the "fourth Member" on the same footing with the "Ordinary" members of the Council, and the Council, for legislative purposes, was enlarged by the addition of 6 members, namely the Chief Justice and one Puisne Judge of the Supreme Court at Calcutta, and 4 representatives of the Local Governments of Madras, Bombay, Bengal and North-West Province.

Defects of its early form.—But it was soon clear that even Lord Dalhousie's improvement did not suffice to meet the needs of the time. (1) Madras and Bombay still complained of the preponderance of authority which Bengal exercised; (2) the huge extent of territory for which a single Council legislated made it impossible for matters to be handled with adequate information and experience; (3) Moreover, as Sir Charles Wood bitterly complained afterwards, the Council became a sort of debating Society or Petty Parliament, and arrogated to itself the right of inquiry into and redress of grievances. (4) Above all, the terrible events of the Mutiny brought home to men's minds the dangers arising from the entire exclusion of Indians from association with the legislation of the country.

The Indians Councils Act 1861.—It was to remove these defects that in 1861 was passed what Chailley has called "the primary Charter of the present Indian Legislatures"* as the result of much correspondence

* Chailley : 385.

between Lord Canning and Sir Charles Wood. The legislative power was restored to the Councils of Bombay and Madras and new Councils were allowed to be established in other provinces. This was done for Bengal (1862), for North Western Province (1886), for Burma and the Punjab (1897), and for Eastern Bengal and Assam in 1905. Thus the first step was taken in the direction of legislative Decentralization. But there were rigid restrictions placed upon the powers of the Provincial Councils. Formerly the law enacted by the Local Legislatures had been complete in themselves and came into operation of their own force. From 1861 the previous sanction of the Governor-General in Council was made requisite, for legislation by the local Councils in certain cases, and all Acts of the local Councils required the subsequent assent of the Governor-General in addition to that of the Governor. The Governor-General thus became the head of all legislative authority in British India.*

The third defect—namely the inconvenient interference of the Council established by the Act of 1853 with the acts of the Executive Government—was removed by strictly confining the functions of the new Councils to legislation.

The fourth defect (exclusion of Indians) was removed by reinforcing the Central Council with additional members—not less than six and not more than twelve—*nominated* for two years, of whom not less than half were to be *non-officials*. It is well to fully appreciate the meaning of this step. It was not easy to get, in the then state of education, Indians familiar with Western methods of Government. The kind of leaders the Act had in view were Indian Rajas,

* See Cowell.

or their Dewans, or great Land-holders or retired Officials of high rank. But none of these knew the full bearing of the methods of legislation adopted in 1861. As Prof. Thakore says "In one word, the nomination of Indians to the legislative Councils was a bold step in advance of the time. It is necessary to understand this to realize how fast India has progressed, or rather, how utterly unprepared India was for Western political methods and institutions in 1861."*

The student will find it convenient to follow the subsequent history of the Councils by considering (a) changes in their Constitution and (b) expansion of their Functions. Under the first, he should consider (1) the total membership of the Councils, (2) the proportion of official and non-official members, and (3) the method of appointment of members. Under the second, he should consider how the Functions of the Councils came to be enlarged in course of time.

The Act proves inadequate.—Before long the Act proved inadequate. The number of Indians well-qualified by education and status to take an interest in the affairs of Government was growing fast and they wanted something more than a Council that was small in size and strictly confined to legislation.

The Indian Councils Act of 1892.—The establishment of the Indian Universities had given an impetus to higher education and the increase in political interest manifested itself in the inauguration of the Indian National Congress in 1885. The question of the reform of the Councils, therefore, began to exercise the attention of the Government of Lord Dufferin. Finally the Indian Councils Act of 1892 was passed. Mr. (afterwards Lord)

* Thakore 139.

Curzon who was then the Under-Secretary of State explained that the object of that Act was to widen the basis and expand the functions of Government in India; and to give further opportunities than then existed to the Non-official and Native elements in Indian Society to take part in the work of Government, and in that way "to lend official recognition to that remarkable development both of political interest and political capacity that had been visible among higher classes of Indian society since the Government of India, was taken over by the Crown in 1858."

Though as a result of this Act the total membership of the Councils was increased, there was great opposition to the principle of election being introduced in them. Lord Cross, the then Secretary of State, said "It would be unwise to introduce a fundamental change of this description without much more positive evidence in its favour than was forthcoming." But the Government of Lord Lansdowne urged that they should not be precluded from resort to some form of election where conditions justified belief in it; and they asked for power to make rules for the appointment of additional members by nomination or otherwise. They had their way. The compromise between the conservative principle of nomination and the radical method of election was embodied in the so-called "Kimberley Clause" (due really to Lord Northbrook). This clause empowered the Governor-General in Council, with the sanction of the Secretary of State in Council, to make regulation as to the conditions of nomination of the additional members to the Council. The intention of Parliament, in conferring this rule-making power on the Government of India. was explained to be as follows :—

"Where Corporations have been established with definite powers upon a recognized administrative basis (*e. g.* Municipalities and District Boards), or where Associations have been formed upon a substantial community of legitimate interests, professional (*e. g.* Universities), commercial (*e.g.* Chambers of Commerce), or territorial (*e. g.* Land-holders etc.), the Governor-General and the local Governors might find convenience and advantage in consulting from time to time such bodies, and in entertaining at their discretion an expression of their views and recommendations with regard to the selection of members in whose qualifications they might be disposed to confide."

Technically, the function of the nominating bodies was to be that of recommendation only : but the political sense of the Government of India told them that it was impracticable either to insist on selection from a panel of names proffered, or to reject individual nominations at discretion. This course was bound, in course of time, to lead on to election pure and simple.

So far about widening the basis of the Councils. The Act of 1892 also enlarged their functions. The Councils were allowed, in addition to their legislative function, to hold a discussion on the annual financial statement, and also to ask questions under prescribed conditions and restrictions.

(75) IV—MORLEY-MINTO REFORMS

The next stage of reform is associated with the name of Lord Minto and Lord Morley. The final proposals are contained in the Despatch of November 27th, 1908. The Parliamentary Act embodying the changes received Royal assent on 25th May 1909. It is in the

direction of enlarging the Councils, and of making them more representative and effective that the value of the Reforms lies. Introducing the Reforms Bill in the House of Lords, Lord Morley admitted that the proposed measures involved the surrender of some portion of the authority and control that was hitherto exercised by the Bureaucracy. It would have to resort to the more difficult arts of persuasion and conciliation, in the place of the easier methods of autocracy. Lord Morley was hopeful that officers will be found "who possess the natural gifts, the loyalty, the imagination, and the force of character, which will be requisite for the conduct of the administration under the more advanced form of government to which they were about to succeed."

We may, as before, consider the changes made by the Act of 1909 under the heads of (A) Constitution and (B) Functions.

The constitution of the Councils was changed in *three* respects. (1) Numbers, (2) Proportion of Official and Non-official members, (3) Methods of appointment or election.

Numbers—These, as they were laid down under the Act of 1892 were as shown in column 2 of the table below. The numbers were doubled or more than doubled after the Act of 1909 as can be seen from columns 3 and 4 of the same Table.

Serial Number	PROVINCE	Maximum number of Additional Members under the Act of 1892.	Maximum number of Additional Members under the Act of 1909.	Total Strength under the Regulations of 1912. (d)	Strength of the Councils under the Regulations 1912.								
						Nominated.						Elcd.	
					Ex-officio. (c)	Law Officers.	Other Officials.	Total Officials. (e)	Experts.	Non-officials.	Total Nominated. (f).	Non-officials.	Majority. (g)
	1	2	3	4	5	6	7	8	9	10	11	12	
1	India ...	16	60	68	8	...	28	36	...	5	33	27	Officials 4
2	Madras ...	20	50	48	4	1	16	20	2	5	24	21	N.-O. 6
3	Bombay ...	20	50	48	4	1	14	18	2	7	24	21	10
4	Bengal ...	20	50	53	3	...	16	19	2	4	22	28	13
5	Bihar Orissa ...	(a)	50	44	3	...	15	18	1	4	20	21	7
6	United Province ...	15	50	49	...	...	20	20	2	6	28	21	7
7	Punjab ...	15	30	26	...	...	10	10	2	6	18	8	4
8	Burma ...	15	30	17	...	...	6	6	2	8	16	1	3
9	Assam ...	20 (b)	30	25	...	..	9	9	1	4	14	11	6

Notes—(*a*) There was no Bihar and Orissa Province before 1912.

(*b*) Between 1905-1912 Assam was joined to Eastern Bengal, both being called Eastern Bengal and Assam.

(*c*) Ex-officio members here mean members of the Executive Council and in the case of Madras and Bombay the Advocate-General.

(*d*) In the totals the head of the Province is excluded. (*e*) *i.e.*, nominated and ex-officio, columns 5 + 7.

(*f*) Official and Non-Official, columns 6 + 7 + 9 + 10. (*g*) Difference of columns 10 + 12 *minus* 8.

Proportion of Official and Non-official Members :— Under the Act of 1861 at least one half of the additional members of the Legislative Councils of the Governor-General and of Madras and Bombay, and at least one-third of the members of the other Legislative Councils had to be Non-officials. An Official majority was not required by Statute, but in practice was always maintained before the Act of 1909 except in Bombay, where the Official members had been for some years in a minority.

Under the Regulations of 1909 and 1912 there was to be an Official majority in the Governor-General's Legislative Council and a Non-official majority in all other Legislative Councils. The proportion as fixed by those Regulations is given in the above statement.

The significance of the distinction between the Official and Non-official members arose out of the constitutional view that all Official members were bound to vote with the Government on all Government measures. The Provincial Governments were strictly subordinate to the Government of India and the latter to Parliament through the Secretary of State. Whatever legislative measure Government introduced in the Legislative Council was in accordance with the instructions of the Secretary of State or with the decision of the Executive Council. The members of the Executive Council, therefore, were bound to support the Bill, and to oppose any amendments which were not in conformity with the plans of Government.

Lord Elgin's View on the Subject.—The constitutional issue in this respect was well explained by Lord Elgin in a speech which he made in the Legislative Council on December 27th 1894 when he defended the position taken by himself and other Members of the Executive

Council in supporting the Cotton Duties Bill in pursuance of a mandate from the Secretary of State, and against their own previously expressed views :—

"So far as the individual action of my colleagues and myself is concerned, Sir Henry Brackenbury, in the discussion on the Tariff Bill, and again to day, has said that we are bound to obey the orders given by the proper and constitutional authority. But, for my part, I do not think that exhausts the question. It is claimed that members must be free to speak and vote in this Council for the measure they honestly think best. I can accept that position only with the qualificaton that they duly recognise the responsibility under which they exercise their rights in this Council. Only in an entirely irresponsible body can members act entirely as their inclination leads them. In every legislative body a man must sit, unless he has an hereditary right, by what in modern parlance is called a mandate, and that mandate must be given by some authority. I need not remind you that in a Parliament a man is not free to act exactly as he pleases, he is distinctly subject to the mandate he has received from his constituents, and practice has shown that even this is not sufficient, but to make Parliamentary Government effective, it has been found necessary to introduce party management, and the bonds of party, in the present day, certainly show no sign of being relaxed. Here we have no election and, I am glad to say, no party, but every man who sits here sits by the authority and sanction of Parliament, and to say that he can refuse to obey the decisions of Parliament would be absurd. But that is not all. Parliament has provided for the Government of the Indian Empire. The British Raj can be provided for in no other way. Parliament has allotted his proper

place to the Viceroy, as the head of the Executive in India, and it has given him a Council for the purpose of making laws and regulations which cannot have powers in which he does not share. But the Viceroy admittedly is not invested with supreme authority but, as I understand, it is by distinct enactment entrusted to the Secretary of State and his Council, and to speak of this Council as supreme, if that means that it has independent and unfettered authority is to say what is not the fact."*

From this view of the position of the Governor-General and Ordinary Members of the Council with regard to legislation it logically follows that Additional Members nominated by Government from amongst its subordinate Officials should also vote in accordance with the declared intentions or policy of the Government.

We shall discuss at a later stage the *pros* and *cons* of this convention, but the fact of its existence should be carefully noted.

3. *Methods of Appointment or Election.*—Under the Act of 1861 all the "additional" members were nominated, the only restriction being the requirement to maintain a due proportion of Non-official members.

The Act of 1892 recognised the principle of indirect election. The Regulations under the Act enabled certain recognized bodies and associations to recommend candidates, who, though there was no obligation to accept them, were rarely refused in practice.

Under the Act of 1909 the additional members must include not only nominated members but also members elected in accordance with Regulations made under the Act.

With regard to the principle of representation,

* Iyenger 146-147.

Lord Minto's Government came to the conclusion that (1) election by the wishes of the people is the ultimate end to be secured, whatever may be the actual machinery adopted for giving effect to it, that (2) in the circumstances of India representation by classes and interests is the only practicable method of embodying the principle in the constitution of the Legislative Councils. Sir Charles Aitchison, a member of the Executive Council in 1892, was quoted to the effect "the division of the people into creeds, castes, and sects with varying and conflicting interests rendered representation in the European sense an obvious impossibility." It was therefore decided that for certain limited interests (Corporations of Presidency Towns, Universities, Chambers of Commerce, Planting Communities and the like) limited electorates must exist as they then existed. Difficulties began when one went beyond these limited electorates and had to deal with large and widespread interests or communities such as the landholding or professional classes; or with important minorities such as Mahomedans in most province in India, and Sikhs in the Punjab. No uniform system was possible throughout India. Class electorates were to be granted where that was practicable and likely to lead to good results, and in their failure or defect, it might be necessary to have recourse to nomination. Accordingly, separate representation was given to the Mahomedans, and to the large land-owning interests. The remaining constituencies for the Provincial Councils—which constituted the only means of representation of the people at large—were constituted out of Municipalities and District Boards voting in groups. The scheme of representation is shown in the following Table.

Constitution of the Legislative Council under the Regulations of 1912.

Name of the Council	No. of Members							
	Ex-officio	Additional						
		Nominated	Elected					
India ...	6 Ordinary ... 1 C. in C. ... 1 Lt. Gov.. or Chief Commissioner of the Provinco in which the Council sits.	Not more than 28 to be Officials and 3 being non-officials to be selected respectively from the Landlords of the Punjab, the Mahamedans of the Punjab, and the Indian Commercial Community.	Pro. Leg. Councils,	The landholders of Madras, Bombay, Bengal, U. P., B. and O. and the C. P.	The Mahomedans of Madras, Bombay, Bengal, U. P. and B. and O.	The Mahomedan landholders of U. P. or Mahomedans of Bengal at alternative years.	Chamber of Commerce Calcutta and Bombay	Total 68 or including the G. G.
	8	33	13	6	5	1	2	69

Name of the Council	Ex-officio	Additional											
		Nominated		Elected									
		Official.	Non-Official.	Corporation.	Mun. & Dist Boards.	University.	Landholders.	Planting Community.	Mahomedans	Ch. of Com.	Indian Community.	Miscel.	Total
Madras ...	4	16	5	1	9	1	5	1	2	1	1		48
Bombay ...	4	14	7	1	8	1	3	...	4	2	2		48
Bengal ...	3	16	4	1	10	1	4	1	5	2	1	3	53
B. and O. ...	3	15	4	...	10	...	5	1	4	...	...	1	44
U. P. ...	...	20	6	...	13	1	2	...	4	1	...		49
Punjab ...	...	10	6	...	6	1	...	...	...	1	...		26
Burma ...	...	6	8	...	...	...	...	...	...	1	...		17
Assam ...	...	9	4	...	4	...	2	3	2	...	...		25
C. P. ...	...	10	7	...	5	...	2	...	...	...	...		25

Changes in the Functions of the Councils.—Not less important than these changes in the constitution of the Councils were the changes in their functions. As has been already pointed out, by the Act of 1861 the Councils were confined strictly to legislation. The Act of 1892 gave members power to discuss the budget but not to move resolutions about it or to divide the Council. It became the practice accordingly to allot annually one or two days to the discussion of a budget already settled by the Executive Government. Lord Morley's Act empowered the Councils (1) (*a*) to discuss the budget at length before it was finally settled; (*b*) to propose resolutions upon it; and (*c*) to divide upon those resolutions. Not only on the budget, however, but (2) on all matters of general public importance resolutions might henceforth be proposed and divisions taken. The resolutions were to be expressed and to operate as recommendations to the Executive Government. On certain questions, among which may be mentioned matters affecting Native States, no resolutions could be moved. Any resolution might be disallowed by the Head of the Government without his giving any reason other than that in his opinion the resolution could not be moved consistently with the public interest. (3) At the same time the right to ask questions of the Government was enlarged by allowing the Member who asked the original question to put a supplementary one.

Criticism.—The Morley-Minto Reforms though a great improvement upon the Act of 1892, soon failed to satisfy the aspirations of the people. The reasons are not far to seek. The Councils were defective in their constitution and circumscribed in their functions. They were not properly representative of the whole

population; the Official and nominated members—who generally voted with Government—lent a colour of unreality to the proceedings of the Councils, and strained the relations between the Officials and Non-officials. Nor had they any real powers in legislation or finance. When, therefore, the people were disillusioned about their real nature, there was an outburst of political agitation that was reinforced by the Great War. As the authors of the M. C. Report said the Morley-Minto Reforms were the final outcome of the old conception which made the Government of India a benevolent despotism which might, as it saw fit, for purposes of enlightenment, consult the wishes of its subjects. They were the last word in the application of the principle of association. In no sense did they make the Administration of India responsible to the people of India.

(76) V—APPOINTMENT OF INDIANS TO EXECUTIVE COUNCILS

Even prior to the introduction of the Reforms, Lord Morley had appointed two Indians to his own Council. Similarly Indians were appointed to the Executive Councils of the Governor-General and of the Governors of Madras, Bombay, and Bengal. In this way Indians were allowed to enter the very citadel of Bureaucracy. But even there they were hopelessly outnumbered by their European colleagues and could not do much more than represent the Indian point of view.

We have thus passed under review the three forms of Association and shown the inadequacy of each, thus clearly bringing out why the next step had to be that of Responsible Government.

PART IV

RESPONSIBLE GOVERNMENT

CHAPTER XV

PROVINCIAL DEVOLUTION

(77) I—GESTATION OF THE MONTAGU-CHELMSFORD REFORMS *

Having considered in the last two Chapters how neither the principle of Decentralization nor of Association succeeded in modifying the character of Indian Bureaucracy to the extent demanded by public opinion, it is now time to turn to the Reforms associated with the name of Mr. Montagu and Lord Chelmsford. The Reforms merely carry forward the work of the last sixty years of direct British administration in India; for, as was profoundly remarked by the late Mr. Gokhale, one of the peculiar conditions of the peculiar position of the British Government in this country is that it should be a continuously progressive Government.† Nor have the people of India stood still. "The political philosophy and axioms of the West have become an essential part of Indian life, and when its Education came to India it brought with it the politics of Nationality, Liberalism, Freedom."‡ Indian aspirations were quickened by the

*Horne Chapter III. † Speeches 443.
‡ Ramsay MacDonald 2.

outbreak of the Great War. It became a foregone conclusion that some great step in political advance of the country was inevitable in the near future though nobody could tell its exact nature. Political theorists, therefore, began to adumbrate schemes of their own. One of the first was that of Mr. Gokhale, elaborated at the instance of Lord Willingdon and published posthumously in 1917. Next came the scheme of Mr. Curtis of the Round Table. This is an Organization founded in 1910, with branches in all parts of the British Empire, and having for its object the dispassionate study of Imperial problems. The account given by Mr. Curtis of its origin and development, in his book on "Dyarchy" is specially interesting in as much as the essential feature of that scheme was adopted in the Act of 1919. Mr. Curtis felt that "Responsible Government" was the *sine qua non* of the success of political Reform in India, and a sketch was prepared of the kind of new Government that was proposed to be set up in a province to give effect to Responsible Government. The proposal was "that for departments (of the Provincial Government) in which it can be done safely some form of responsible as distinct from merely representative government should be instituted forthwith, while the remaining departments would continue to be administered under the present (*i. e.*, pre-Reforms) system, the functions of constitutional ruler in the one case and of actual administrator in the other being united in the person of the Governor... .... The suggestion is that for such of the departments of Government as were made over to it, the (provincial) Legislature should be really supreme, and should be administered by an Executive chosen

from its own members and responsible to it." As will be presently seen, this is Dyarchy.

Reference should also be made to the Scheme prepared by Nineteen Members of the Viceroy's Legislative Council, which was subsequently adopted by the Congress and the Muslim League in December 1916. Its main features were (*a*) direct elections to the Provincial Councils; (*b*) Resolutions of the Provincial Councils to be absolutely binding upon the Governor; (*c*) a 4/5 majority of elected members in the Central Legislature; (*d*) complete provincial autonomy; (*e*) Indian members of the Executive Councils—Provincial and Central—to be half and half and to be elected by the elected members of the Legislature concerned.

(78) II—THE ANNOUNCEMENT OF 20TH AUGUST 1917

The discussion of these and other schemes made the political atmosphere tense with expectations when Mr. Montagu made his Announcement in the House of Commons.

"The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire...........I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be judges of the time and measure of each advance, and they

must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility."

The Act of 1919.—Mr. Montagu's Announcement was followed by his visit to India. The Viceroy and the Secretary of State toured all over the country and their proposals were published in July 1918 in the Report that has since become popular under the name of "Montford" Report. The Report was preceded and followed by an enormous amount of preliminary work in the Provincial and Central Secretariats for being utilized by various Committees. The Report indicated three Committees for that purpose: the Franchise Committee and the Functions Committee presided over by Lord Southborough, and the Committee on the Home Administration of India under the presidency of Lord Crewe. The Government of India in their turn addressed a series of Despatches to the Secretary of State in Council on the subject of the Reforms. It was generally agreed that the net result of the modifications suggested by the Government of India would have been a "whittling" down of the original proposals of the Montford Report.

The Government of India Bill, based on all this material was introduced in the House of Commons on 2nd June 1919, and after its second reading was referred to a Joint Select Committee of both the Houses. The Report of this Joint Committee is a document of very great importance. The Bill, amended in accordance with the Committee's recommendations and passed by both the Houses received the Royal assent on 23rd December 1919.

Meaning of the Announcement:—Coming back to the Announcement of August we may say that, in the words of Lord Chelmsford, it had three features. (1) The progressive realization of Responsible Government was given as the key-note and objective of British policy in India; (2) substantial steps were to be taken in that direction at once; (3) that policy was to be carried out by stages; or shortly "the gradual transfer of responsibility to Indians." The Announcement definitely abandoned the conception of the British Government as a benevolent despotism and subsituted in its place the conception of British Government as a guiding authority whose role it would be to assist the steps of India along the road that in the fulness of time would lead to complete Self-Government within the Empire.

(79) III—DEVOLUTION OF AUTHORITY

The next question is how and where to introduce Responsible Government in India? Is it to be introduced in the Central or Provincial Government? Now the Government of India cannot be made "responsible" to the Indian people unless its responsibility to British Parliament is relaxed. Parliament had hitherto performed the duty of controlling and criticising the Government of India in the interests of the Indian people. Parliament must delegate, little by little, from itself to the people of India the power to criticise and control the Government. Then and to that extent alone can the Government of India be responsible to the Indian people. The more of such power is given to the people of India the less will be left in the hands of the British Parliament.

"But this process of relaxation cannot go on at the

same pace on all levels. The Secretary of State's relaxation of control will be retarded, if for no other reason, by the paramount need of securing Imperial interests; that of the Government of India by their obligation of maintaining the defence of India, and of the Provincial Governments by the securing of law and order. As we go upwards, the importance of the retarding factor increases, and thus it follows that popular growth must be more rapid and extensive in the lower than in the upper levels."*

On these general considerations the M. C. Report laid down four formulœ: (1) There should be, as far as possible, complete popular control in Local Bodies, and the largest possible independence for them of outside control.

(2) The Provinces are the domain in which the earlier steps towards the progressive realization of responsible government should be taken. Some measure of responsibility should be given at once, and our aim is to give complete responsibility as soon as conditions permit. This involves at once giving the provinces the largest measure of independence, legislative, administrative, and financial, of the Government of India which is compatible with the due discharge by the latter of its own responsibilities.

(3) The Government of India must remain wholly responsible to Parliament, and saving such responsibility, its authority in essential matters must remain indisputable, pending experience of the effect of changes now to be introduced in the provinces. In the meantime the Indian Legislative Council should be enlarged and made more representative and its opportunities of influencing Government increased.

*M. C. Report: 188.

(4) In proportion as the foregoing changes take effect, the control of Parliament and the Secretary of State over the Government of India and the Provincial Governments must be relaxed.*

(80) IV—GOVERNORS' PROVINCES

Before proceeding to consider the various measures for the devolution of authority to the provinces, it must be pointed out that all provinces have been standardized by being constituted into "Governors' Provinces". Before the Reforms there were three kinds of provinces according as they were under Governors, Lieutenant-Governors, or Chief Commissioners. Though all had come to possess Legislative Councils of their own, the provincial Heads were assisted by Executive Councils only in the three Presidencies and Bihar and Orissa. But under the Reforms a uniform Executive has been set up in each province, consisting of the Governor and a Cabinet containing Councillors and Ministers. The Cabinet form of Government has many advantages;

(a) It relieves the over-worked head of the province of much pressure of work, which is more efficiently done by division of labour among the Councillors.

(b) It makes possible collective deliberation.

(c) It allows Indians to be introduced in the highest seats of authority.

But though each province is to have the Governor and a Cabinet, the status of all the Governors is not the same. There are three features which distinguish the Governors of the Presidencies of Madras, Bombay, and Bengal from the rest.

(*a*) *Appointment*—The old Governors are appointed

*M. C. Report S. 188—91.

by His Majesty and previous consultation with the Governor-General is not essential; and they are generally drawn from the ranks of British Peers or politicians. In appointing the new Governors, the Governor-General has to be consulted, for most of them are to be drawn from the senior ranks of the Indian Civil Service. A Governor drawn from the Civil Service has first-hand knowledge of Indian conditions and practical experience of administration: but there is little or no chance, in his case, of a wider outlook and more sympathetic insight being brought to bear upon problems of administrations. Indian opinion, therefore has never received with approval the policy of appointing Governors from the Civil Service.

(*b*) The new Governors do not enjoy the privilege of direct access to the Secretary of State (a remnant of the former independence of the two Presidencies of Madras and Bombay);

(*c*) Finally, their pay is smaller than that of their older confreres,

(82) VI—CLASSIFICATION INTO CENTRAL AND PROVINCIAL SUBJECTS

The next step is to define clearly the spheres of the Central and the Provincial Governments. In the absence of a clear line of demarcation the Central Government, as we have already seen, excessively interfered with the Provincial Governments. Now even before the advent of the principle of Responsible Government provincial autonomy had been demanded by statesmen like Gokhale and it was the cardinal

Foot-Note:—(81) dealing with redistribution of provinces which was here in the first edition is taken up later on.

feature of the famous Durbar Despatch of Lord Hardinge. But it is important to note that provincial autonomy was advocated more as a palliative to the worst defects of bureaucratic centralization than as a condition of Responsible Government. But the Reforms Act emphasized the latter aspect. "Whereas concurrently with the gradual development of self-governing institutions in the provinces of India it is expedient to give to those provinces in provincial matters the largest measure of independence of the Government of India which is compatible with the due discharge by the latter of its own responsibilities." The two questions of Responsible Government in the provinces and provincial autonomy were joined together by the Act and no progress was possible in the former unless there was a substantial attainment of the latter.

The first thing was the classification of the functions of Government into "Central" and "Provincial" according to the recommendations of the Functions Committee.

The principle of division was that a subject of all-India importance or extent *e.g.* Defence, Foreign Relations, Tariff, Coinage, Post, etc., belonged to the Central Government. On the other hand, matters which were of predominantly local interest *e. g.*, Local Self-Government, Sanitation, Education etc. were provincialized.

Even though the 'Central' and 'Provincial' subjects have been drawn up into two separate lists, the line of division is not as rigid as in the 'Federal' form of Government.

Hitherto the Provinces were entirely dependent upon the Government of India and its agents for the

purposes of administration. Such functions, therefore, as have not been made over to the Provinces belong to the Central Government.

Further, the Central Legislature has not been precluded from dealing with provincial subjects. The proviso "subject to Indian Legislation" in the list of provincial subjects means, that legislation on that subject, in whole or in part, or any powers reserved thereunder to the Governor General in Council are recognised as an all-India subject. Provinces can legislate upon them only with the previous sanction of the Governor-in-General Council.

Where any doubt arises as to whether a particular matter does or does not relate to a provincial subject, the Governor-General-in-Council is to decide. it and his decision will be final.

Finally, the Government of India may use the provinces for the discharge of certain "agency" functions *e.g.*, collection of all-India revenues etc.

(83) VII—FINANCIAL DEVOLUTION

Having divided the Functions into "Central" and "Provincial" our next step is to consider how larger powers have been given to the provinces in matters of Finance, Legislation, and Administration.

We may consider the subject of Financial Devolution under the following heads :—

(i) Financial relations between the Government of India and the Provinces.
(ii) Relaxation of control over Budget.
(iii) Over Expenditure.
(iv) Over Revenue, including taxation.
(v) Over Borrowing.
(vi) Over Cash balances.

(i) *Financial Relations.*—We traced in an earlier section the growth of the system of Provincial Settlements. We there found how certain heads of revenue were "Indian," others were "Provincial," and the remaining were "Divided" *i. e.* the proceeds were shared by both the Central and Provincial Governments. Land Revenue, Stamps, Excise, Income-tax, and Irrigation belonged to the last category. This system gave to the Government of India many opportunities of exercising control over provincial finance. The first step towards minimising this control was a complete separation of the Indian and Provincial sources of revenue which meant the abolition of the "divided heads." A special Committee under Lord Meston was appointed to go into this whole question. It recommended the provincialisation of Land Revenue, Excise, Irrigation, and Stamps and it recommended that the whole of Income-tax should go to the Central Government. Under such a redistribution of revenue-heads the provinces gained what the Government of India lost. This might not have mattered much if the revenues that were still left to the Government of India *i. e.*, Customs, Railways, Salt, Opium, had been capable of expansion. But they were not so. The revenue from Customs depended upon the fiscal policy. Railways were an uncertain source of income and so was Opium; an increase of Salt-duty was unthinkable. A method, therefore, had to be devised by which the deficit in Central finance could be made good. In the end the system of provincial contributions was then adopted as recommended by the Committee of Lord Meston.

The guiding principles with the Committee arrived at were briefly these. (1) Though provincial

contributions were inevitable for some years to come, any permanent financial arrangement which involved them was unsatisfactory, and the Central Government, therefore, should so direct its policy as to reduce those contributions with reasonable rapidity, and with a view to their ultimate cessation. (2) Though the initial contributions of each province must, in any case, be arbitrary, in view of the diversity of revenue and expenditure of each province and its past financial history, any such contribution ought to be regarded as temporary and provisional and steps ought to be taken to fix a standard and equitable scale of contributions towards which the provinces should be required to work by stages. (3) The initial contributions to be paid by each province in the year 1921-1922 were to be fixed arbitrarily.

Taking first the initial contributions. The Meston Committee calculated that the Government of India would suffer to the extent of 983 lacs of Rupees in 1921-1922 and the provinces would gain about 1850 lacs of Rupees under the new arrangement. The Committee assessed the initial contribution on the "increase in spending power" of each province, taking the case of each on its own merits. The initial contributions were fixed as shown in the second column of the following Table.

Province	Recommended contribution in 1921-1922; (in lacs)	Percentage of initial contribution to the total contribution	Percentage of standard contribution to the whole contribution	Standard percentage as finally accepted by the Government of India
Madras ...	348	35½	17	17/90
Bombay ...	56	5½	13	13/90
Bengal ...	63	6½	19	19/90
United Pro.	240	24½	18	18/90
Punjab ...	175	18	9	9/90
Burma ...	64	6½	6½	6½/90
Bihar and Orissa ...	—	—	10	—
Central Pro.	22	2	5	5/90
Assam ...	15	1½	2½	2½/90
Total ...	983	100	100	90

To proceed next to the Standard Contribution. The ideal basis for determining the standard contribtion was the capacity of each province to contribute which, in its turn, depends upon the economic position of the province. After considering all available evidence, the Meston Committee recommended the percentage of the deficit shown in the 4th column as the standards for the various provinces. The standard was to be reached within seven years by regular gradations so that each province might have sufficient time to adjust its finances to the growing burden.

Criticism of this Arrangement.—Lord Meston's Committee had to deal with a most difficult question. They had to satisfy the Government of India without

displeasing the provinces. The latter did not submit to the proposed percentages of contributions without violent protests. Some relief was granted to them by the Joint Parliamentary Committee. (*a*) Thus instead of making the whole of Income-Tax Central, it assigned to the Provinces three pies per rupee of additional income assessed after the Income-Tax Act of 1921. (*b*) Meston Committee contemplated that some provinces *e.g.*, Bombay, Bengal, Bihar and Orissa, and Central Provinces might pay more than their initial contribution in course of time. But the Joint Committee laid down that in no case should the initial contribution payable by a province be increased. Nor have the Government of India accepted the recommendation to stop the contributions within seven years.

In case of an emergency the Governor-General in Council has the right of demanding a contribution in excess of that fixed under the preceding rules. The contributions, further, are a first charge upon the provincial revenue and are not subject to the vote of the Provincial Council.

We shall take up the criticism of the "Meston Award" along with that of the working of 'Dyarchy' at a subsequent stage.

(ii) *Relaxation of Control over Budget.*—Before the Reforms the provincial budgets were included in the budget of the Government of India. But after the Reforms almost complete freedom has been given to the provinces in the preparation of their budgets. Only the Government of India has to be supplied with certain information about (*a*) withdrawals from the provincial balances; (*b*) any loans that the Provincial Government may require from the Central Government; (*c*) the opening and closing balances of the Famine Insurance

Fund ; and (*d*) the paying off of the Provincial Loan Account.

(iii) *Over Expenditure.*—The real control over provincial expenditure will henceforward be exercised by the Provincial Councils. So far as the Secretary of State in Council and the Government of India retain powers of control over expenditure they are best taken up in connection with that subject. We may only note that so far as the Provinces continue to act as the Agents of the Central Authority control over them has not been relaxed.

Control by the Provincial Finance Department.—The Finance Department has extensive powers of advice and control in all matters bearing upon provincial finance. It is in the hands of a Member of the Executive Council. Its functions have been thus enumerated by Devolution Rule 37. It is (*a*) to be in charge of the account relating to loans granted to the Local Governments, and advise on the financial aspects of all transactions relating to such loans; (*b*) to be responsible for the safety and safe employment of the Famine Insurance Fund; (*c*) to examine and report upon all proposals for the increase or reduction of taxation, and (*d*) of borrowing ; (*e*) to be responsible for seeing that proper financial rules are framed for the guidance of other Departments and that suitable accounts are maintained by them ; (*f*) to prepare an estimate of the total receipts and disbursements of the Province; (*g*) to assist in the preparation of the Budget; (*h*) on the receipt of a report from the Audit Officer to the effect that expenditure is being incurred for which there is no or insufficient sanction, to take steps to obtain sanction or to immediately stop the expenditure ; (*i*) to lay the Audit and Appropriation Reports before

the Committee on Public Accounts; (*j*) to advise Departments responsible for collection of revenue regarding the methods of collection.

Control by the Audit Department.—To secure an independent audit of Provincial expenditure, the Department of the Controller and Auditor-General has been made a Central subject. The Department brings to the notice of the Finance Department irregularities in expenditure.

(iv) *Over Revenue, including Taxation.*—An enlargement of the taxing powers of the province is a necessary complement of the relaxation of control over expenditure. Of course as the Central Government has a vital interest in the financial position of the provinces it cannot relax its control with any degree of finality. But there are many taxes of a strictly provincial or local incidence the imposition of which cannot affect the resources in which the Government of India have interest. A Provincial Council may impose a tax mentioned in Schedule I, for the purpose of the Local Government, without the previous sanction of the Governor-General in Council *i. e.*, (1) a tax on land put to uses other than agricultural; (2) a tax on succession or acquisition by survivorship in joint family; (3) tax on any form of betting or gambling permitted by law; (4) a tax on advertisements; (5) on amusements; (6) on any specified luxury; (7) a ragistration fee; (8) a stamp duty other than duties the amount of which is fixed by Indian Legislation. Previous sanction of the Governor-General in Council is also not required to allow a Local Authority *e. g.*, a Local Board or Municipality to impose a tax mentioned in Schedule II. *i. e.*, (1) a tall; (2) a tax on land or land values; (3) on

buildings; (4) on vehicles or boats; (5) on animals; (6) on menials or domestic servants; (7) an octroi; (8) a terminal tax; (9) a tax on trades, professions, and callings; (10) a tax on private markets; (11) a tax imposed in return for services such as a water rate, a lighting rate etc.

The Governor-General in Council may, at any time, by order, make any addition to the taxes enumerated in Schedules I and II.

(v) *Over Provincial Borrowing*:—Freedom in this is a necessary part of the above programme. Before the Reforms the Central Government did all the borrowing for the Provincial Governments, who, in their turn, lent to the Municipalities and Local Boards and the agriculturists. Provincial borrowing was opposed on the ground that the Indian money market was very limited and if provinces competed with each other the rate of interest would go very high. But during recent years the number of the 'investing' public is increasing, and there are local sources of borrowing which are open only to local authority.

Devolution Rules accordingly provide that a Local Government may raise loans on the security of revenues allotted to it—for meeting capital expenditure On constructions 'of lasting public utility' if the expenditure is so large that it cannot reasonably be met from current revenues, and if the Governor-General in Council is satisfied that the projected construction is likely to yield a prescribed return of interest. The Provincial Government may also borrow for expenditure on Irrigation work, for Famine Relief, for the financing of the Provincial Loan Account etc. For each Provincial Loan

the sanction of the Governor-General in Council—specifying the amount of loan, the rate of interest, and the mode of repayment—must be obtained. The Government of Bombay was the first to take advantage of these borrowing powers, the Bombay Development Scheme and the Sukkar Barrage Scheme being undertaken on the strength of borrowed capital.

Provincial Loan Account:—Each Province, before the Reforms, used to borrow money from the Central Government, for the purpose of making advances to Agriculturists. These Provincial Loan Accounts must now be closed. Some of the Provinces, *e. g.* Bengal, Punjab, Central Provinces, Assam closed the Account immediately. The remaining Provinces have to wind up the Account within 12 years of the inauguration of the Reforms.

Advances to Local Governments by the Government of India.—The provinces, in addition to borrowing in the market, may receive advances from the Central Government for expenditure on Irrigation works etc. The terms as to interest and repayment of such advances are to be determined by the Government of India.

(vi) *Over Cash Balances.*—Before the Reforms the revenues of the whole of India were treated as one and each province was required to keep a minimum cash balance. Such balances were useful under the old system, because the Central Government was the banker of all public funds and it took precautions against withdrawals of funds which might disturb its often fine-drawn calculations of ways and means. Greater liberty has now been given to the provinces to draw upon their balances, provided due notice is given of the time and amount of withdrawal.

Famine Assignments.—The frequency and magnitude

of famines in India have often thrown Indian Finance into disorder. A wide-spread famine means shrinkage of revenue at the very time when considerable outlays have to be made on famine relief or construction of protective works. The problem resolves itself into so distributing the loss of revenue and additional expenditure as would not throw out of gear either Provincial or Central finance. About 1917 Famine Relief Expenditure was made a divided head, the outlay being borne by the Central and Provincial Governments in the proportion of 3 to 1. Under the Reforms the expenditure has been provincialized and a Famine Insurance Fund has been inaugurated in each: the sum fixed for each province is as follows:—

	In thousands of Rupees.
Madras	661
Bombay	6360
Bengal	200
United Provinces	3960
Punjab	381
Burma	67
Bihar and Orissa	1162
Central Provinces	4726
Assam	10

This annual grant is not to be expended except upon the relief of famine, or upon the construction of protective irrigation works or other works for the prevention of famine. Any portion of the grant which is not so spent is to be transferred to the Famine Insurance Fund. If this Fund exceeds six times the annual assignment, the latter might be temporarily suspended. This Fund could be further utilized for the grant of loans to the cultivators. It is to form part

of the general balances of the Central Government who is to pay interest on it.

Summary.—So much about the new financial arrangement between the Government of India and the Provincial Governments. A complete bifurcation between Central and Provincial heads of revenue, a fixed and progressively decreasing contribution to the Central Treasury as the only surviving financial nexus between the two, absolute freedom in the preparation of the budget, simpler control over the provincial expenditure, and of Accounts and Audit, increased powers of taxation and borrowing, revised conditions for advances to the provinces, and finally a new system of Famine Assignments, are the chief features of the new arrangement.

(84) VIII—LEGISLATIVE DEVOLUTION

In an earlier section we considered how control was exercised over provincial legislation. No legislative proposal could be considered in a Provincial Council without the "previous sanction" of the Governor-General in Council. This prevented the Councils from dealing with their peculiar social and local problems which vary in such a striking manner from province to province in India.

As a preliminary to the removal of the old restrictions, there was made a clear demarcation of powers between the Central and Provincial Legislatures closely following the division of subjects between the two authorities.

Section 80-A defines the powers of Local Legislative Councils. A Local Legislature of a province may make laws for the "peace and good government" of the province. No previous sanction is required to

legislate upon provincial subjects. It is required to make or take into consideration any laws mentioned in 80-A (3).

The problem of legislative devolution became difficult and complex because they had not a clean slate on which to write. A mass of legislation had been passed in the past by the Central and Provincial Councils on a variety of subjects ranging over the whole gamut from strictly parochial to Imperial matters.

We may thus classify that mass of legislation.

Legislation.

- passed before 1861.
- passed between 1861 and the Government of India Act of 1919.
  - By the Indian Legislative Council.
    - Central subjects.
    - Provincial subjects.
  - By the Provincial Councils.
    - Central subjects.
    - Provincial subjects.
- passed after the Act of 1919.

Now considering legislation from this chronological point of view, let us see how "previous sanction" is to apply. It is required--

(*a*) For repealing or altering laws passed before 1861 except those which the Governor-General in Council may by notification in the Gazette of India declare to require no previous sanction.

(*b*) For repealing or altering laws passed between

1861-1919 which have been mentioned in the published Schedule. If the provinces had been entirely free to make laws on subjects which though provincial had also an interprovincial or all-India aspect, the general framework of the laws of the country, as laid down in the Acts and Codes, regulating commercial and business relations might have been seriously changed and grave confusion might have ensued. It was to avoid this that important Acts of an interprovincial nature were included in a Schedule published in the Gazette of India.

(*c*) Since 1919, (1) for legislating upon any Central subject, or (2) upon those provincial subjects which are, in whole or part, "subject to Indian legislation."

An authentic copy of every Act to which the Governor has given his assent has to be sent to the Governor-General and the Act has no validity until the Governor-General has assented to it and that assent has been signified to and published by the Governor.

Where the Governor-General withholds his assent from any such Act, he has to signify to the Governor in writing his reasons for so withholding his assent.

An authentic copy of every Act assented to by the Governor-General is to be sent to the Secretary of State and it is lawful for His Majesty in Council to signify his disallowance of the Act.

(85) IX—ADMINISTRATIVE DEVOLUTION

Much need not be said about this process which is the necessary result of the greater powers in finance and legislation conferred upon the province. Numerous laws have been passed—mostly of a technical nature—which have the effect of ridding the Provincial Governments of control in administration.

CHAPTER XVI

REFORMED PROVINCIAL COUNCILS

(86) INTRODUCTORY

The underlying principle of the Morley-Minto Reforms was, as explained in the last Chapter, that of greater association of the people with the discussion and decision of public questions *e.g.*, in the Legislative Councils. But the Councils though they exercised influence over the administration did not in the least control it, for the administration continued to remain essentially responsible to Parliament. Lord Morley expressly repudiated that his Reforms were a step towards Responsible Government. But the principle of "Association" has its limits which were nearly reached under the Morley-Minto Reforms. Association is merely a means to an end and as such is incapable of becoming the goal of political ambition. That goal is Responsible Government and Association was a period of probation for it.

(87) II—CONSTITUTION OF THE COUNCILS

Now the grant of Responsible Government in the Provinces being the cardinal feature of the Montford Scheme, the Legislative Councils had to be reformed—both with regard to their Constitution and Functions—in conformity with that principle. Bearing upon the change in their constitution the M. C. Report laid down the following comprehensive

formula: "We propose that there shall be an *enlarged* Legislative Council, differing in size and composition from Province to Province, with a *substantial elective* majority, elected by *direct* election, on a *broad* franchise, with such *Communal* and *Special* representation as may be necessary." What we have now to do is to show how the vital questions here so briefly mentioned have been dealt with in the Act or by the Rules framed under it.

(1) *Numbers.* Even the maximum strength under the old Rules (50 in the major Provinces) was very small, considering the extent and population of the provinces. In many provinces the actual numbers fell far short of the statutory maximum. The maximum had to be low, as a substantial proportion of the members consisted of Officials, and the number of Officials that could be withdrawn, for the purposes of the Councils, from the administration without serious inconvenience to it became the upward limit to which or about which Non-officials could be "added" to the Councils.

But such a requirement of official strength or majority is inconsistent with the Reforms. A few Officials—in addition to the Executive Councillors who are ex-officio members, might be appointed but their *raison-de-tre* is not the furnishing Government with official votes but rather the stabilizing influence which they will bring to bear upon the debates in the Council on account of their first-hand and living touch with administration. As for non-official representation, the guiding principle is that all interests and communities should have a fair and equal chance. Nor should the Councils be, on the other hand, unmanageably large. The minimum as laid down in

the Act is given in the Table. It will be noted that as the Morley-Minto Act prescribed the maximum strength of the Councils, it was possible for the Executive to have fewer members than the maximum. The Act of 1919, however, prescribes a minimum, and by the Rules made under this Act, it will be observed that in each province there are more members than the Statutory minimum.

The Composition of each Council established under the Rules

PROVINCE.	Total (*Ex-officio,*) nominated and elected.)	Nominated.			Total (elected.)	Elected. By Special electorates.			
		Total (Nominated and Ex-officio)*	Officials (Nominated and Ex-officio.)	Non-Officals.		Total.	University.	Landholders.	Commerce and Industry including mining & planting.
1. Madras ...	127	29	23	6	98	13	1	6	6
2. Bombay ...	111	25	20	5	86	11	1	3	7
3. Bengal ...	†139	26	20	6	†113	†21	†1	5	15
4. United Provinces ...	123	23	18	5	100	10	1	6	3
5. Punjab ...	93	22	16	6	71	7	1	4	2
6. Bihar and Orissa ...	103	27	20	7	76	9	1	5	3
7. Central Provinces..	‡70	16	10	6	54	7	1	3	3
8. Assam ...	53	14	9	5	39	6	...	...	6

as finally made is shown in the following Table.

Elected.											REMARKS
By Communal Electorates.							By General Electorates.				
Total.	Mahomedans. (Rural)	Mahomedans. (Urban)	Europeans	Anglo-Indians	Indian Christians	Sikhs.	Total	Non-Mahomedans (Rural)	Non-Mahomedans (Urban)	Minimum under the Act of 1919	
20	11	2	1	1	5	...	65	56	9	‡118	
29	22	5	2	...	...	...	46	35	11	111	
46	33	6	5	2	...	...	46	35	11	§125	
30	25	4	1	...	...	...	60	52	8	118	
44	27	5	...	...	...	12	20	13	7	83	
19	15	3	1	...	...	...	48	42	6	98	
7	6	1	...	...	...	...	40	31	9	70	
12	12	...	...	...	...	...	21	20	§1	53	

* This column shows the maximum number of officials who may be nominated under the rules. It is open to the Governor to nominate fewer officials with a corresponding increase in the number of nominated non-officials shown in the next column.

† There will later be an additional elected seat for the Dacca University with consequent increases of one in the figures shown in these columns.

‡ Members to be nominated as the result of elections held in Berar have been shown as elected. *Vide* sect 72 (2) (*c*) of the Act.

§ This seat (Shillong) is filled by a general electorate including Mahomedans, there being no separate Mahomedan Urban contituency.

(2) *Proportion of Officials and Non-Officials.*—In an earlier section we considered the theory of official voting. In the old Provincial Councils, the Officials were not in a majority, for it was felt that there were sufficient safeguards against non-official opposition. No non-official could introduce a private Bill without "previous sanction." Non-Official opposition to a Bill proposed by Government could be got over by getting the Bill passed in the Legislative Council of the Governor-General which had concurrent powers of legislation and where an official majority was always handy; and as regards Resolutions, even if non-officials succeeded in carrying one in the teeth of Government opposition—which was not a rare phenomenon—the Resolution was of a purely recommendatory character. As regards the Budget the powers of the Local Council were more illusory than real. Thus, as in any case, the powers of the Councils were nominal and limited, a non-official majority in them did not matter much. But though an official majority was unnecessary, an official *bloc* was felt to be indispensable. The Officials had freedom neither of speech nor of vote, and the non-officials were irritated by their apparently meaningless opposition which widened the cleavage between the Government and the people. But though the non-officials were in a majority, their influence was compromised by certain factors. A non-official majority was not the same thing as an elective majority. The former contained nominated European and Indian non-officials most of whom voted with Government. Thus the non-official majorities proved largely illusory and the unreality of the Councils

caused disappointment and dissatisfaction.

In the new Councils "not more than 20 per cent of the members can be officials and at least 70 per cent must be elected members."

It will be seen that the power of the Governor to nominate non-officials is restricted to only 10 per cent. of the total strength. Out of these he must nominate some to represent interests or classes mentioned in the Rules under the Act. Thus in the case of the Bombay Council the Governor is required to nominate members to represent the Anglo-Indian Community, the Indian Christian Community, the labouring classes in Bombay, the Depressed Classes, and the Cotton trade in Bombay. He has full discretion only as regards the remaining five members.

In addition to the nominated officials and non-officials, the Governor has the right of nominating one or two persons "having special knowledge or experience of the subject matter of a Bill which has been introduced into the Council, as expert members."

(3) *Method of Appointment.*—We considered in an earlier section the defects of the state of representation before the Reforms. In the first place the electorate was very restricted and secondly as the election was indirect there was no real connection between the primary voter and his representative in the Council. This lack of connection deprived the franchise of its political value and educative influence and left no room for the principle of Responsible Government.

But as it is upon this principle that the whole edifice of Provincial Government is raised, its proper application requires direct election and low franchise. In framing the constituencies and defining the franchise, however, we must remember that about 90

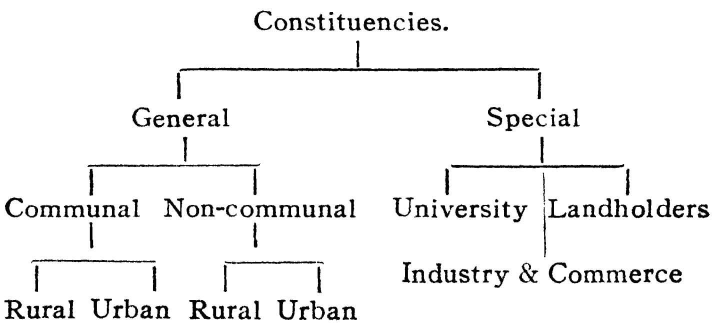
per cent of the population is illiterate and 70 per cent rural in its habits; that education is unequally distributed among various communities, is too much literary, and imparted in an unsatisfactory manner; further, as the authors of the M. C. Report say, " the politically-minded educated Indians, though they have done a great deal for the political and social improvement of the masses, have not yet identified their interests with those of the masses. Nor can we be blind to the division of Indian society by races, creeds, and castes. In spite of these real difficulties, however, the experiment of responsible government must be tried. " It will be agreed that the character of political institutions reacts upon the character of the people. This fact, that the exercise of responsibility calls forth the capacity for it is the best ground for confidence in the working of self-government in India. "*

The detailed work of defining constituencies and franchise was done by the Franchise Committee of Lord Southborough. For purposes of " rural " representation it took the District as a convenient unit each sending one or more members according to its size or population. The larger and more industrial towns were given " urban " representation. This distinction between rural and urban constituencies was unknown in the old Councils. But towns are assuming a new importance in India. As the Government of India said in their Despatch " After religion and race, the boundary between the town and the country is the greatest dividing line that runs through the Indian people. It corresponds closely with the division between progress and conservatism,

* M. C. Report : S. 130.

between English education and Vernacular ; between experience of self-government and lack of such experience ; between the existence of newspapers, professions, bar-libraries, and societies, and their absence. It is roughly · the difference between the old India and the new, the forces that are forcing us forward and the forces that are holding us back."

But uniform constituencies based upon territory though well-suited to politically advanced countries like England or the United States, are unsuited to Indian conditions. They have been supplemented by constituencies designed to represent particular communities, or special interests *e. g.* the Universities, European and Indian Commerce, and Land-holders. We may classify the constituencies thus.



Disputable Matters of Representation.—Thus the problem of the representation of the Indian population is one of peculiar complexity. The Joint Committee laid down important principles in this respect in connection with their comments upon Section 72A (4) (*c*). We shall take them in order, and first, ***Communal Representation.***—So far as the Mahomedans were concerned their claim for separate representation was

beyond revocation, as they were in enjoyment of that privilege in the old Councils. The non-Mahomedans—particularly the Hindus, in their turn, had not only acquiesced in that concession but solemnly given their approval by what is known as the "Lucknow Compact" of 1916. By this agreement the Mahomedans were allowed to have Mahomedan Members equal to fifty per cent of the total elected Indian Members in the Punjab, thirty per cent in the United Provinces, forty per cent in Bengal, twenty-five per cent in Bihar and Orissa, fifteen per cent in the Central Provinces, fifteen per cent in Madras, and thirty-three per cent in Bombay.

This Lucknow Compact was taken by the Franchise Committee as the basis for determining the number of Mahomedan seats in each Provincial Council.

It was not thought wise to go behind the Lucknow Compact which was taken as a proof of the growing understanding between the two great communities of Indian society.

Considering the question of Communal Representation on its merits, we may say that its advantages are the following :—

It better protects the interests of the particular community; secures better representation of that community; it welds the community more closely; and affords it greater opportunites of education and service.

On the other hand there are grave disadvantages. As the M. C. Report pointed out, Communal Representation will not carry India towards Responsible Government. (1) It is opposed to the teaching of the history of all self-governing countries which shows that in each the territorial principle has

vanquished the tribal, and blood and religion have ceased to assert a rival claim with the state to a citizen's allegiance. (2) Again, communal representation perpetuates class divisions and thus retards the growth of that citizen-spirit which is superior to the partisan spirit of a narrow community or religion. (3) A minority which is given special representation owing to its weakness and backwardness is positively encouraged to settle down into a feeling of satisfied curiosity, it is under no inducement to educate and qualify itself to make good the ground which it has lost compared with the stronger majority. On the other hand the latter will be tempted to feel that they have done all that they need do for their weaker fellow-countrymen and that they are free to use their power for their own purpose. The give and take which is the essence of political life is lacking."*

Some other disadvantages might be here pointed out. (4) The concession is contagious. It is impossible to stop when once you give concession to one community, before giving it, in fairness, to all. (5) Many communities in India are not homogeneous. There are divisions and sub-divisions and communal representation would accentuate this fissiparous tendency. (6) Again, in India communal representation may be viewed with intense suspicion as a Machiavellian device to widen existing lines of cleavage, to check the growing sense of nationality and to secure the position of the British Government by the application of the principle of "divide and rule." (7) A separate representation given to the less progressive communities is certain to affect the calibre of the Council during the period of transition.

* M. C. Report: 227—230.

In spite of these drawbacks this concession has been continued to the Mahomedans in all provinces, and conferred afresh on the Sikhs in the Punjab, the Indian Christians in South India, and the Europeans in Madras, Bombay, and Bengal. It was no doubt an irony of fate that the publication of the M. C. Report with its strong presentation of the case against communal representation should have witnessed the recrudescence of the communal feeling with a strength and sharpness that were impatient of reasoning and that succeeded in gaining the concessions mentioned above.

A less objectionable method of securing the representation of minorities is that of *Reservation of Seats* in plural member constituencies. The superiority of the device of reservation to communal representation is this that it does not deepen existing differences, it admirably secures the object which it has in view, it is simpler in operation, and it is a concession that can be revoked with greater ease and facility than communal representation when it has done its work. It is by this means that the Non-Brahmins in the Madras Presidency and the Marathas in the Deccan have been represented in the Local Councils. So far as the Deccan Marathas were concerned 6 seats were reserved for them in each of the plural-member constituencies of Bombay (South), Thana, Ahmednagar, Nasik, Poona, and Ratnagiri Districts. The Sholapur, Kolaba and the West Khandesh District is to elect a Maratha member to the first, second, and third Councils respectively and to succeeding Councils in the same rotation. It was not felt necessary to reserve a seat in the Satara District because it was thought that the Maratha element in it was sufficiently strong to return

a Maratha to the Council with certainty. Both the Communities had pressed their claims for separate representation before the Franchise Committee but their claims were not favourably entertained. The Non-Brahmins in Madras are in an overwhelming majority in that province, though backward in education. Experience has shown that the Non-Brahmins can organize themselves well for entry into the Councils. In the Madras Council they are in a majority and in the Bombay Council the Marathas form an important group.

Representation of Special Interests.—Next to the problem of communal representation comes the one of the representation of Special Interests. Here the qualification is based not on the elector's belonging to a particular community in a town or district, but rather upon representing a special interest *i.e.*, of the Land holders, of University, or of Industry and Commerce. Such special electorates are non-territorial in their nature and the vote or votes thus exercised are in addition to that based upon the territorial qualification.

The Landholders—the historic aristocracy of the country—had special representation in the old Councils and they are sufficiently distinct from the vast mass of cultivators who are either their tenants or peasant proprietors. In the Bombay Presidency the Gujarat Sardars and Inamdars, the Deccan Sardars and Inamdars, and the Sind Jagirdars and Zamindars—paying not less than Rs. 1000 per year by way of land revenue, are given one member each in the Legislative Council.

The Universities also, on the analogy of the Universities of Oxford and Cambridge, enjoyed special representation in the old Councils. They safeguard

the interests—not of the educated classes—but of University Corporations. The franchise extends to all graduates of the University of more than seven years' standing.

Indian and European commercial and industrial interests have been given special representation, *e.g.*, the Planting interest in Madras, Bihar Orissa and Assam; Mining interest in Bengal, Bihar Orissa and the Central Provinces; European Chambers of Commerce in Bombay, Bengal, Madras, and the United Provinces; Indian Chambers of Commerce in Bombay, Bengal, and Madras; Mill Owners' Association in Bombay, etc.

Nomination.—But there are sections of Indian population to whom the devices of communal representation, of reservation of seats, or special representation cannot be conveniently applied. In such cases nomination pure and simple was found most suitable. It is even simpler and more elastic than reservation. There are minorities which are too small or unorganized to be protected by a seat being reserved for them but which are sufficiently important to have their claims acknowledged. Nomination serves the purpose well in such cases. Rules under the Act require the Governor of each Province to secure the representation of certain interests or communities by this method of nomination; for example the Depressed Classes in many provinces; Anglo-Indians; Indian Christians; similarly the Cotton trade in Bombay; "excluded tracts" in Madras, Central Provinces and Assam; and the wage-earners in the city of Bombay.

The case of the Wage-earners is specially interesting. They are sufficiently important and

organized in Bombay for instance. But the Joint Committee felt that election would not secure for Labour the best and most useful representative that was available. They, therefore, went in for nomination rather than election.

At the same time it must be admitted that the position of the Nominated members in the Councils is far from enviable. They are viewed with suspicion both by Government and by the elected members. Perhaps Nomination is inconsistent with full Responsible Government.

Proportional Representation.—It is obvious that devices like communal representation etc. can have no permanent place in a perfect franchise scheme. Though useful as transitional and preparatory measures they are bound to make room in course of time for more scientific methods of election which have been found uselul in Western countries. The problem of the representation of the minorities is in no way peculiar to India. In advanced countries it has been successfully solved by ingenious methods of election. One of them—Proportional Representation—was strongly advocated by Dr. R. P. Paranjpye as well suited to Indian conditions. He rightly claimed that it would facilitate the progress of India towards Responsible Government by gradually obliterating communal differences. The Joint Committee accepted the suggestion and recommended that the method might be tried if the Local Council of a province passed a Resolution in favour of its adoption.

(88) III—SCHEME OF FRANCHISE FOR THE BOMBAY PRESIDENCY

As an example of the way in which the above principles have been applied in practice I give below a Table showing the scheme of franchise in the Bombay Presidency. I have also included in the Table the franchise for the Legislative Assembly and the Council of State, in order that the juxta-position may suggest how the franchise is higher for the Indian Legislature. Franchise Rules for different provinces have been collected in an excellent volume called "Electioneering in India" by the Hon Mr. Hammond of the Civil Service.

In the Bombay Presidency the qualification of an elector to the Council is based upon

(i) Community.

(ii) Residence and

(iii) (a) occupation of a building or

(b) assessment to income-tax

(c) receipt of a military pension

(d) the holding of land.

(iii-c) *i.e.*, the qualification based upon the receipt of a Military pension is a special concession to the Indian Army Officers on account of their services in the late War.

SCHEME OF FRANCHISE FOR THE BOMBAY PRESIDENCY

Qualifications		Legislative Council		Legislative Assembly	Council of State
			Rs.	Rs.	Rs.
(*a*) **Assessment to Income-tax.**	On an annual Income of not less than	....	2,000	2000–5000	10,000-20,000
		Urban.			
(*b*) Occupation or ownership of a building	(i) of which the annual rental value was not less than	In Bombay City	120	180	—
		In Karachi City	60	—	—
		In other Cities	36	—	—
	(ii) of which the capital value was not less than	In other Cities	1,500	—	—
		Rural	—		
	(i) As above	In Panch Mahal and Ratnagiri.	24		
		In Sind and rest of the Presidency	36		
	(ii) As above	In Panch Mahal and Ratnagiri	1,000		
		In Sind and rest of the Presidency	1,500		

SCHEME OF FRANCHISE FOR THE BOMBAY PRESIDENCY—*contd.*

Qualifications		Legislative Council	Legislative Assembly	Council of State
(c) The holding of land	By ownership or tenancy of which the annual assessment is not less than Rs.	In Upper Sind Frontier Panch Mahal ... Ratnagiri 16	37-8-0	—
	By the right of Government to land Revenue being alienated to him	In rest of Sind and of Presidency 32	75-0-0	—
	By being a Khot			
(d) Land-holders	1. Gujarat Sardars and Inamdars	Paying land revenue of not less than Rs. ... 1,000	1.000	2,000
	2. Deccan Sardars and Inamdars			
	3. Sind Jagirdars and Zamindars.			
Do. ...	4. Other Inamdars, Saranjamdars, Talukdars or Khots	Do. 1,000	1,000	2,000

N.B.—In some provinces, both in urban and rural constituencies, the franchise is based on the payment of Municipal rates and taxes in lieu of occupation of buildings.

Explanatory Remarks:—With regard to the whole scheme it should be noted that the Joint Parliamentary Committee desired that the Franchise as settled by Rules under the Act should not be altered for the first ten years and that it should be at present outside the power of the Legislative Councils to make any alterations in it. The case of women-suffrage where such a change has been allowed is to be regarded as exceptional and as not forming any precedent in respect of proposals for other alterations.

Other Qualifications of Electors:—An elector to the Local Council or to the Assembly or the Council of State must be a male British Subject, of sound mind, and over 21 years of age. The question as to whether the franchise should be extended to subjects of Native States was much discussed at the time and received favourable consideration at the hands of the Southborough Committee. But as some Local Governments were opposed to the enfranchisement of the subjects of the Native States, the question was left to the discretion of each Local Government. Not one of them has extended the privilege to them.

Similarly with regard to female suffrage, though there was an overwhelming case in its favour, the Joint Committee felt that the question went too deep into the social system and susceptibilities of India, and therefore, left it to be settled in accordance with the wishes of the Indians themselves as constitutionally expressed *i.e.*, by a recommendatory Resolution in its favour in the Local Councils. That popular opinion in some provinces is genuinely in favour of extending the franchise to women is clear from the fact that Resolutions in favour of removing the sex-

disqualification were passed in Madras and Bombay, and also in the Legislative Assembly. But in some provinces *e.g.*, Bengal, Bihar and Orissa, similar Resolutions failed.

Residence for a specified period of time *e.g.*, one year in the constituency is required in the case of each elector.

It will be seen from the sub-joined Table, that the qualification for voting is based upon the possession of property as evidenced by the holding of land, occupation of house, payment of Municipal Taxes, Income Tax etc. The qualification is not the same for all the provinces nor is it uniform throughout a Province. It is generally higher in the urban area than in rural area. Even in urban areas it is specially high in towns like Bombay and Karachi, and in rural areas specially low for poor districts like Ratnagiri and the Panch Mahals. But within a given constituency it is the same for all voters.

Qualifications for Candidates.—A person is not eligible for election as a member of the Council if such person (*a*) is not a British Subject, (*b*) is a female, or (*c*) is already a member of the Council or of any other legislative body constituted under the Act, or (*d*) is dismissed or suspended from legal practice, (*e*) is of unsound mind, (*f*) is under 25 years of age, (*g*) is an undischarged solvent, (*h*) is a discharged solvent with a certificate that his insolvency was caused by misfortune without any misconduct on his part.

Again a person against whom a conviction by criminal court involving a sentence of transportation, or imprisonment for a period of more than six months is subsisting, unless the offence of which he was

convicted has been pardoned, is ineligible for five years from the date of expiration of the sentence.

In addition to these general qualifications a candidate is required to belong to the "special" constituency or, in the case of communal representation, to the community he proposes to represent. A further qualification of residence for six months within the constituency is required in some provinces.

Corrupt Practices.—Direct elections and low franchise open the door to all sorts of irregularities at the hands of candidates or their overzealous agents. Stringent rules have been drawn up to prevent such practices. Corrupt practices include bribery, undue influence, personation, publication of false statements etc. The best method of checking such practices is to have a proper scrutiny of election-expenditure of each candidate. The candidates are, therefore, required to keep a careful record of receipts and expenditure in connection with the election and submit it to the Returning Officer. As a further check over such practices the declarations of election expenses made by the candidates and lodged in the office of the Returning Officer, are open to inspection on payment of a prescribed fee. Conviction for a corrupt practice would disqualify a candidate from standing for election for five years from the date of conviction.

Other Electoral Rules.—It is unnecessary to reproduce here the detailed rules made for the purpose of preparing the electoral roll, nomination of candidates, the holding of elections, and the publication of results, etc. Nominations are made by a fixed date; they are

officially scrutinized; the Collector is the Returning Officer for the District. The polling booths are scattered throughout the District and polling takes place on the same day throughout the district, and throughout the Presidency for ths matter of that. Different days are fixed for urban and rural voting, and for Mahomedan and Non-Mahomedan voting. Votes are given by ballot and in person. In plural member constituencies every candidate has as many votes as there are members to be elected though he may accumulate all of them upon any one candidate.

(89) IV—SESSIONS AND DURATION OF THE COUNCIL

If we throw a glance at a fully developed democratic body like the House of Commons we find that all matters relating to its composition, duration, methods of business, privileges, etc., are settled by itself. It has cost the House of Commons many a protracted struggle with the King and his Council before it succeeded in establishing these valuable privileges. In fact it is in the exercise of these inestimable privileges that its real sovereignty consists. Parliament does not derive the rights from any authority higher than itself, for it itself is the highest authority.

But there can be no comparison between the House of Commons "the Mother of Parliamentary Institutions" and an Indian Provincial Council. The latter is a creation of the former and can have, therefore, no inherent rights of its own. And the extent to which it comes to enjoy such powers and

privileges independently of Parliament is a measure of the sovereignty it will have come to exercise.

In the meanwhile important matters with regard to the Councils have been laid down in the Act itself or in Rules made under the Act. The Rules are as much binding as the Act itself, for they were either made with Parliamentary sanction or subsequently ratified by Parliament. Thus in matter of the composition of the Councils, the Act lays down the minimum strength of the Councils and the proportion and of elected and nominated members.

Regarding Sessions the Act requires the Governor to fix the time and place of holding the sessions of the Council and he has the power to prorogue it. The normal life of a Council is three years though it may be dissolved sooner by the Governor. In that case he must call a fresh Council within six months of the dissolution of the old Council.

Presidency of the Councils.—In the old Councils the Head of the Administration *i. e.*, the Governor or Lieutenant-Governor was the President. This was quite in keeping with the historical fact that the Legislative Council was an expansion of the Executive Council. But the Councils have now become assemblies of legislators and their new role required a corresponding change in their Presidents. By the Governor ceasing to be a member of the Legislative Council (though he has the right of addressing it and of requiring the attendance of members for the purpose), he has been withdrawn into a convenient Olympian height from which he can watch and control, so far as seems advisable or possible, the proceedings of the Legislature.

The Councils also have benefited by the absence of the Governor. The presence of the Head of the Province in the Council had a stifling influence upon the Honourable Members who thus could not make full use of their none-too-wide powers of putting Questions or moving Resolutions. If, therefore, the Councils were to develop the freedom and dignity of Parliamentary bodies as in other countries, they had to be removed from the stunting influence of the presence of the Governor at their deliberations.

The Joint Committee considered carefully this question. They were of opinion that the Governor should not preside and they advised that, for a period of four years, the President should be appointed by the Governor. Wherever possible it would be a great advantage if some one could be found for this purpose who had had Parliamentary experience. The Legislative Council should itself elect a Deputy President, and at the end of four years the nominated President would disappear and the President and Deputy President would be elected by the Council. The Joint Committee attributed the greatest importance to this question of the Presidency of the Councils. "It will, in their opinion, conduce very greatly to the successful working of the new Councils if they are imbued from the commencement with the spirit and conventions of Parliamentary procedure as devised in the Imperial Parliament."

(90) V—GENERAL VIEW OF BUSINESS AND PROCEDURE IN THE COUNCIL

To get a complete view of procedure in the Council reference must be made to three sources: to section 72-D (6) and (7) of the Act, to Rules made under that Section, and to the Standing Orders of the Council. The Rules were in the first instance framed by the Governor-General in Council with the sanction of the Secretary of State in Council, and then approved by Parliament. They cannot be repealed or altered by the Indian Legislature or by the Provincial Legislature. The Rules provide "as to the persons to preside over meetings of the Council in the absence of President and Deputy President, to the preservation of order at the meeting, for quorum, and for the asking of questions on, and the discussion of, any subject specified in the Rules."

Thus at the commencement of each session of the Council is elected a panel of four chairmen any one of whom presides over the Council in the absence of the President or Deputy President. The President decides all points of order which may arise and his decision is final. He may even ask a member to withdraw from the Council if the member's conduct appeared to him to be grossly disorderly; or finally, he may suspend the sitting of the Council for a specified time in the case of grave disorder arising in the Council.

Such matters as are not provided for in the Rules are provided for by the Standing Orders. The first Standing Orders were made by the Governor-General in Council with the approval of the Secretary of State, but they can be amended

by the Local Legislature. Ten days' notice, with a draft of the proposed amendment must be given, and leave will be given to move the amendment if 30 members favour it. After the leave is given the draft amendment is referred to a Select Committee of ten including the President, the Deputy President and one of the panel of four chairmen.

Much depends upon the way in which the time of the Council is allotted to the consideration of the business before it—both Official and Non-official. It is a recognized principle that in this matter Government has a preponderating voice. In the Provincial Council, for instance, the Governor allots days for the business of non-official members and on those days their business has precedence. When non-official business has precedence, Bills have precedence over Motions to amend the Standing Orders, and the latter over Resolutions, though the President has the discretion of giving priority to any item of such business.

Nothing brings out more clearly the responsible character of the Councils—contain as they do members from rural areas and from the backward classes—than the permissive use of the vernaculars in them. As Mr. Curtis says "In India the official and political classes both incline to think as though the progress of India towards Responsible Government depended on training Indians to the work of Ministers, Legislators, and Officials. But it really depends upon training electorates to a real understanding of the questions at issue, and to a habit of recording conscious decisions upon them. Such training will not begin in any real sense except in so far as provincial business is transacted and discussed in a language the people at large understand."

(91) FUNCTIONS OF THE COUNCILS

Having considered the constitution of the Councils and its business and procedure, let us proceed to the Functions of the Council. They can be conveniently grouped under four heads.

(1) Interrogatory

(2) Deliberative { (a) Resolutions, (b) Motion for adjournment.

(3) Legislative

(4) Financial

(1) *Interpellations.*—The right of asking Questions was first conferred by the Act of 1892 and extended by the Act of 1909. But in the old Councils many Questions were disallowed and the information supplied was often of no value. This right of putting Questions is generally regarded as a powerful weapon in the hands of the members for checking the day-to-day acts of the Executive.

No Question can be asked in regard to the following subjects :—

(i) Any matter affecting the relations of His Majesty's Government or of the Government of India, or of the Governor or Governor-in-Council, with any foreign state.

(ii) Any matter affecting the relation of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or ralating to the affairs of any such Prince or Chief, or to the administration of the territory of any such Prince or Chief.

(iii) Any matter which is under adjudication by a Court of having jurisdiction in any part of His Majesty's dominions.

The President's decision on the point whether any question is or is not within the above restrictions is

final. Any member may put a supplementary question for the purpose of elucidating any matter of fact regarding which an answer has been given. Ten clear days' notice is required for the asking of a Question. A period of one hour is made available for the asking and answering of Questions at every meeting of the Council.

(2) *Deliberative Functions.*—(*a*) *Resolutions* :—The right of moving Resolutions was regarded, even in the old Councils, as a valuable means of bringing the policy of Government more in accord with popular views and of ventilating popular grievances. Fifteen days' notice is required for a Resolution which must be clearly and precisely expressed and raise a definite issue. Amendments to a Resolution (for which a day's notice has been given) may be moved with the consent of the President. Every Resolution is in the form of specific recommendation addressed to the Government, and the same restrictions which apply to the subject matter of questions also apply to the resolutions.

It is important to understand why a Resolution cannot but be purely recommendatory in the present stage of the Councils. Even an all-powerful body like the House of Commons does not make use of Resolutions to control the Executive. It has other methods of doing it *e.g.*, a debate on the Address, interpellations, motions to adjourn, budget debates or, finally, motion of no confidence. The result of pressing a Resolution to division with a view to defeat Government would certainly lead, in England, to a change of Government. In India, however, we have, in the province, the Governor-in-Council who is irremovable by a popular vote. There is no

constitutional means of making a Resolution binding upon him.

(*b*) *Motion for Adjournment.*—This was a new feature of the Councils. In parliamentary countries motion for adjournment is a means for raising debate upon a question of urgent public interest. The Standing Orders require that leave to make a motion for adjournment for the purpose of discussing a resolution on a definite matter of urgent public importance must be asked after Questions and before the business of the day is entered upon. Leave will be given if more than thirty members are for it. This right is subject to the following restrictions.

(i) Not more than one such motion can be made at the same sitting.

(ii) Not more than one matter can be discussed on the same motion, and the motion must be restricted to a specific matter of recent occurrence.

(iii) The motion must not revive discussion on a matter which has been discussed in the same session.

(iv) The motion must not anticipate matter which has been previously appointed for consideration, or with reference to which a notice for motion has been previously given.

(v) The motion must not deal with matter on which a Resolution could not be moved.

(3) *Legislative.—Procedure* :—We shall only consider here the procedure which a Bill has to follow in the Council. The Rules under the Act provide that a Bill might be published in the Official Gazette although no motion has been made for leave to

introduce it. A private member must give notice to introduce a Bill, of fifteen days if the Bill referred to a transferred subject and of a month if the Bill referred to the reserved subject.

After leave of the Council has been obtained, the Bill is introduced on any subsequent day available for business of the kind.

After a Bill has been introduced, the Bill with the Statement of Objects and Reasons is translated into the vernaculars and published in the Gazette.

Every Bill must be read three times, and if the motion of any reading is not carried, it is to be regarded as dropped, and cannot be introduced within a period of six months from the date of rejection.

On the First Reading the principle of the Bill and its general provisions may be discussed; at this stage the detailed provisions cannot be discussed or any amendments moved.

If the First Reading of the Bill is passed, (*a*) it is read a second time either at once or on some future day to be then stated, or (*b*) referred to a Select Committee or, (*c*) published for the purpose of eliciting opinion on it within a specified interval. The Select Committee must report upon a Bill referred to it within two months. After the presentation of its Report the Bill (*a*) is read a second time either at once or on some date in future to be then stated or, (*b*) recommitted to the Select Committee for further consideration with or without instructions.

At the time of the Second Reading of the Bill the President submits it to the Council clause by clause. Amendments, for which seven clear days' notice is given, are moved at this stage. If no amendments are made the Bill may be read third time at once. But if

an objection is made when the Bill is being read clause by clause, the Bill cannot be read the third time at the same meeting, but must be brought in again on some subsequent day. At this stage only verbal amendments can be moved. After the third reading the Bill is said to have passed and it is then signed and certified by the President, and submitted to the Governor by the Secretary, Legislative Department, for his assent.

(4) *Financial.*—We may postpone the consideration of the Budget procedure to the next Chapter.

CHAPTER XVII

DYARCHY

(92) I—MEANING OF DYARCHY

Provinces, the Domain of Responsibility.—The provinces are the domain where the first substantial steps towards Responsible Government were to be taken. As Mr. Montagu said in the House of Commons "The only possible way of achieving devolution and making the unit responsible for the management of its own affairs is to make the government of that unit responsible to the representatives of the people. Now in order to realize Responsible Government and in order to get devolution you must gradually get rid of government by the Agents of Parliament and replace it by Government by the Agents of the representatives of the people. In other words you have to choose your unit of Government and you have got in that unit to create an electorate which will control the government. Now under present circumstances this unit cannot be the one for Local Self-Government...The Reforms of Lord Morley have emphasized the importance of the Provincial Councils and these latter have awakened the appetite for Responsible Government. We must, therefore, go to the provinces as the units of Responsible Government." In this form of Government, administration is carried on by Ministers. The Ministers must have the confidence of the representatives of the people in the Council.

Their responsiblity to the members of Council (and through them' to the electorates) consists in their being liable to be dismissed as soon as confidence in them disappears. In a Parliamentary constitution this responsibility can be enforced by various methods *e. g.* vote of censure, vote of non-confidence, reduction in the salaries of the Ministers, snap divisions, finally withholding of supplies, etc.

Now though the idea of Responsible Government is quite familiar to the Western mind, it is an exotic in India. Hence it has to be introduced under special conditions. The Authors of the Reforms, therefore, took two precautions against possible dangers of trying this form of government: (1) In the first place they excluded altogether the Central Government from this experiment; and (2) even within a province, only a part of the administration was made responsible.

Meaning of Dyarchy.—The reasons that were alleged for this over-cautious policy were the backwardness of the people in education and the prevalence of religious or communal differences; at the same time substantial responsibility had to be given forthwith if the Reforms were to have any value. These contrary objects were accomplished by the device of Dyarchy *i. e.*, by making a division of the functions of Provincial Government between those which are to be made over to popular control and those which for the present must continue to remain in official hands *i.e.*, between Transferred and Reserved subjects. The Governor-in-Council is in charge of the Reserved subjects, and the Governor acting with the Ministers of the Transferred subjects. The division of the sphere of Government between two authorities, one amenable to Parliament and the other

responsible to the electorates is known as Dyarchy.

Division of Provincial Subjects into "Reserved" and "Transferred."—The guiding principle of this division as laid down in the Montford Report was this: "to include within transferred list those Departments which afford most opportunites for local knowledge and social service, those in which Indians have shown themselves to be keenly interested, those in which mistakes that may occur though serious would not be irremediable, and those which stand most in need of development. But Departments primarily concerned with law and order, and matters which vitally affect the well-being of the masses who may not be adequately represented in the new Councils, such as the question of land-revenue or tenant rights, should not be transferred."

Lists of provincial subjects for transfer were drawn up by the Functions Committee and after further examination were finally adopted.

(93) II.—STRUCTURE OF THE PROVINCIAL EXECUTIVE

To turn now to the two halves of the Provincial Executive: the Governor-in-Council, and the Governor acting with his Ministers. There has been no change with regard to the former. The maximum of four Councillors under the old Act has been retained; but the Joint Committee remarked: "In view of a large part of the administration being transferred to Ministers, the normal strength of an Executive Council especially in the smaller provinces, need not exceed two Members, of whom only one need have been in the service of the Crown in India for at least twelve years, the other being, by convention, an Indian; but if, in

any case the Council includes two Members with service qualifications neither of whom is by birth an Indian, it should also include two Non-official Indian Members." The Executive Councillors are not responsible to the Provincial Legislature (in the sense that they could be removed from office by it). They are appointed by His Majesty ; their pay is fixed by Schedule under the Act of 1919; their period of service is for five years. Thus neither their appointment, tenure of office, or pay depends upon the vote of the Council.

The Ministers.—They are to be nominated by the Governor from among the elected members of the Provincial Council and to hold office during his pleasure. Their salary is to depend upon the vote of Provincial Legislature.

As a matter of fact in the Provinces of Bengal, Bombay, and Madras four Executive Councillors and three Ministers, in Bihar and Orissa three Executive Councillors and two Ministers, and in the remaining provinces two Councillors and two Ministers were appointed.

Before the Reforms the whole administration was carried on, even in the larger provinces, by an Executive Council of three Members. It is true that the Reforms made the administration more complex. Also the protracted sessions of the Council and its thirst for information added to the work of the Executive. But even then it was generally felt that the administration had become top-heavy and expensive and the question was frequently raised in the Indian Legislature. Government is now considering if the number of Executive Councillors could not be reduced. As for the number of the Ministers, it must depend upon the vote of the Council.

(94) III—DYARCHY IN OPERATION

Relations of the Two Halves of Government.—We have next to consider how the Executive—half official, half popular—works in practice.

That the problem was full of difficulties goes without saying. It depended for its solution upon two axioms: (1) that the ordinary agency of administration will serve with equal loyalty and honesty the two halves of Government, and (2) that the Governor will be the link between the two halves. In fact the over-shadowing influence of the Governor over the two halves has been at once the cause of the success and failure of Dyarchy. Not only is he responsible for the distribution of Departments among his Councillors and Ministers, but he makes a number of "Rules for Executive Business" which are kept strictly confidential and which are equally binding upon both halves of Government. Again the permanent Heads of Departments—the various Secretaries— have direct access to the Governor, and they keep him closely informed of whatever is going on in each Department. It is by means of such 'unseen' strings that the Governor manages to yoke the Councillors and the Ministers to the chariot of provincial administration and to drive it.

But we shall explain some of the outward measures that have been prescribed for the Governor to keep the two halves together.

It should first be remembered that the two halves of Government are responsible to two different masters for two distinct fields of administration and the responsiblity of each half for its own field is to be kept distinct. The people must not be kept in

doubt as to what acts are done by the Governor on the advice of his Executive Council and what acts are done by him on the advice of his Ministers. Any confusion of responsibility would not only be unfair to the Councillors and the Ministers but it would prevent the electorates from judging about the acts or policy of their Ministers in the Council. Thus Responsible Government would lose its real educative value which consists in the ability to form accurate judgments about men and measures.

But in spite of this distinctness of responsibility, the two halves must have one policy. They should be brought together through the Governor. He is personally responsible for the proper administration of his entire province. He is the keystone of the arch of provincial Government. The Joint Committee thus envisaged his part in Dyarchy. The Committee were alive to the difficulties and dangers of "Dyarchy" but they saw no reasons why the relations of the two halves should not be harmonious and mutually advantageous. They regarded it as of the highest importance that the Governor should foster the habit of free consultation between both halves of his Government and indeed that he should insist upon it in all important matters of common concern. He will thus ensure that the Ministers will contribute their knowledge of the people's wishes and susceptibilities, and the Members of his Executive Council their administrative experience, to the joint wisdom of the administration." In another place of the Report the Committee give a picture of the manner in which they thought that the Government of a province should be worked. " There will be many matters of administrative business, as in all countries, which can

be disposed of departmentally. But there will remain a large category of business, of the character which would naturally be the subject of Cabinet consulation. In regard to this category the Committee conceive that the habit should be carefully fostered of joint deliberation between the Members of the Executive Council and the Ministers, sitting under the chairmanship of the Governor. There cannot be too much mutual advice and consultation on such subjects." But this mutual consultation should not be allowed to obscure the responsibility of each half of Government for its own field of administration and it will be for the Governor to decide upon debatable questions of the jurisdiction of the two parts of administration.

Governor to define Spheres of Jurisdiction.—Seeing that the Governor is the pivot of Dyarchy we shall now proceed to consider the special powers with which he has been invested to enable him to discharge his responsibility both with respect to Reserved and Transferred subjects.

An initial difficulty will be about the jurisdiction of the two halves of Government. Though careful lists of Reserved and Transferred subjects have been drawn up, it will not be always clear whether a particular question belongs to one or the other half of Government. "It will not always, however, be clear otherwise than in a purely departmental and technical fashion, with whom the jurisdiction lies in the case of questions of common interest. In such cases it will be inevitable for the Governor to occupy the position of an informal arbitrator betweeen the two parts of his administration; and it will equally be his duty to see that a decision arrived at on one

side of his government is followed up by such consequential action on the other side as may be necessary to make the policy effective and homogeneous."

Devolution Rule 9 accordingly provides that in the case of disagreement between the Executive Councillors and Ministers regarding jurisdiction, "it shall be the duty of the Governor, after the consideration of the advice tendered to him, to direct in which Department the decision as to such action shall be taken; provided that, in so far as circumstances permit important matters on which there is such a difference of opinion, be considered by the Governor with his Executive Council and his Ministers sitting together."

(95) IV—ALLOCATION OF FUNDS BETWEEN THE TWO HALVES

Joint v/s Separate Purse.—Turning next to his financial responsibility in connection with both subjects. This is a problem of allocation of funds between the two halves. The Reserved subjects, vitally concerned with the peace and tranquility of the province, must be guaranteed sufficient revenue for efficient administration and this in spite of the possible opposition of the Council. On the other hand, the Transferred Departments of Education, Sanitation, etc. crying for and capable of almost unlimited improvement must not be starved on the specious plea of the more pressing needs of the Reserved subjects. Such is the problem before the Governor.

The Montagu-Chelmsford Report proposed that the allocation of funds between the two halves should be considered by the Government. as a whole;

provincial contributions and Interest (which are a first charge upon provincial revenue) having been provided for, the supply of the Reserved subjects should have a priority; then the needs of the Transferred subjects should be taken into account; and if funds be insufficient, the Ministers and they alone should face the Council with proposals of fresh taxation.

Thus though the M. C. Report favoured a "Joint Purse" for the province, it sacrificed the Transferred subjects which were made to remain satisfied with what was left after the Reserved subjects had had their fill; and it cast upon the Ministers the disagreeable necessity of proposing additional taxation. The Government of India, in their celebrated Despatch of 5th March 1919, proposed a "Separate Purse" for each half of Government. In addition to the defects mentioned above, they argued that, (*a*) under the Joint Purse it was not impossible for Ministers to starve the Reserved subjects by refusing fresh taxation, and by insisting upon a certain revenue for their own departments; (*b*) the Joint Purse had the incurable fault of being impracticable. It would cause endless friction in the division of the provincial balances and of the proceeds of fresh taxation, in the raising of loans, and in paying interest for them; (*c*) further the Joint Purse would not give any incentive to either half to improve its resources. Under the pooling system, any improvement which either half of Government can effect goes into hotchpot, and there is no direct advantage from it, possibly no advantage at all."

The rival scheme of "Separate Purse" proposed by the Government of India pre-supposed a complete separation between the resources of the two halves of

Government, each having its own balances, revenues, powers of taxation and of borrowing, and a separate budget. It was claimed to be free from the defects of the Joint Purse : but its greatest merit was said to be that it would remove the "Official" Government from the undue influence and control of the Ministers, by depriving the latter of any opportunity to meddle with the "budget" of the Reserved half. Lord Meston—the then Finance Member of the Government of India—argued that the success of the new experiment of Dyarchy required that each half of government should have its own work and should be allowed to do it unfettered by control exercised by the other half; and the contention of the Government of India was that the Joint Purse would place in the hands of the popular half of Government, through their handling of the purse-strings, a very large measure of control over the policy in regard to subjects which were not under their administrative control and consequently for which they were not responsible. It was feared that if, at the time of the preparation of the Budget, there was no automatic barrier between the two classes of revenue like the one which the Separate Purse provided, the popular half would encroach upon the revenue of the other and that the Governor would not be able to prevent this encroachment.

Such were the arguments for and against the Joint Purse brought forward by the Government of India. Now it became sufficiently clear in the course of the controversy that some scheme of allocation of revenues between the two halves of Government had to be made. As the division between the "Reserved" and "Transferred" subjects was not made on fiscal considerations, the assignment of the revenues accruing

under Reserved subjects to the Reserved half, and under Tranferred subjects to the Transferred half was absurd. The transferred subjects in any case required to be subsidized by the Reserved subjects. Thus the real issue between the Joint and the Separate purse did not at all turn upon financial grounds. The problem of distributing a limited revenue between various items of expenditure of more or less urgency and usefulness has to be solved by all governments, as it has to be solved by all private individuals also. A reasonable man so distributes his income as to get the maximum benefit out of each item of expenditure ; and given reasonable Councillors, reasonable Ministers and a reasonable Governor, it was difficult to see why the Joint Purse should prove unworkable.

Dictum of the Joint Committee.—Such was the view taken by the Joint Committee. They said that they had given much attention to the difficult question of the principle on which the provincial revenues and balances should be distributed between the two halves of Government. "They are confident that the problem can readily be solved by the simple process of common sense and reasonable give and take, but they are aware that this question might, in certain circumstances, become the cause of much friction in the provincial Government, and they are of opinion that the rules governing allocation of these revenues and balances should be so framed as to make the existence of this friction impossible. They advise that if the Governor, in the course of preparing either his first or any subsequent budget, finds that there is likely to be serious or protracted difference of opinion between the Executive Council and his Ministers on this subject, he should be empowered at once to make

an allocation of revenues and balances between the reserved and transferred subjects which should continue for at least the whole life of the existing Legislative Council. The Committee do not endorse the suggestion that certain sources of revenue should be allocated to reserved, and certain sources to transferred subjects, but they recommend that the Governor should allocate a definite proportion, say by way of illustration, two-thirds to Reserved and one-third to Transferred subjects, and similarly a proportionate though not necessarily the same fraction of the balances. If the Governor desires assistance in making the allocation, he should be allowed, at his discretion, to refer the question to be decided to such authority as the Governor-General shall appoint. Further the Committee are of opinion that it should be laid down from the first that, until an allocation has been made by the Governor, the total provisions of the different expenditure heads in the budget of the province for the preceding financial year shall hold good."

Devolution Rules about Allocation of Funds.—Effect has been given to this dictum of the Joint Committee by Devolution Rules made under the Act which are to the following effect. They first lay down that "expenditure for the purpose of the administration of both Reserved and Transferred subjects shall be a charge on the general revenues and balances of the province"; that their distribution between reserved and transferred subjects shall "be a matter for agreement" between the two halves; that the Governor, if he is satisfied that there is no hope of agreement between the two halves within a reasonable time, may, "by order in writing make the allocation by

specifying the fractional proportions of the revenues and balances to be assigned to each half; that the Governor may refer the matter to an authority to be appointed by the Governor-General in this behalf on the application of the Governor; every such order to remain in force for a period specified in the order (which will not be less than the duration of the then existing Council, and not exceed by more than one year, its duration;) that if an increase of revenues accrue during the period of the order on account of the imposition of fresh taxation, that increase, unless the Legislature otherwise directs, shall be allotted to that part of Government by which the taxation is initiated. Regarding proposals of borrowing or taxation, they will be considered "by both halves or Government sitting together"; but the decision shall thereafter be arrived at by the Governor-in-Council, or by the Governor and Ministers, according as the proposal originated with the former or the latter.

Every contingency has thus been provided for. When the two halves of Government fail to agree and when the Governor also has failed to allot the moneys, the budget is to be prepared on the basis of the budget of the year about to expire and under no circumstances will the wheels of administration be brought to a standstill because of difficulties in the allocation of funds.

Advantages of the Joint Purse.—Sir Sankaran Nair was from the first a great opponent of the Separate Purse and an advocate of the Joint Purse. The former, he said, by depriving the popular half of any real voice in the settlement of the budget as a whole would substantially reduce the value of the Reforms. The Joint Purse, on the other hand, would minimize

the drawbacks of the dual system of Government introduced in the province, and give both halves of Government opportunities of sympathetically influencing each other's discussions to the advantage of both, and of the people of the province. The Governor too will be in a better position to discharge his duties as head of the whole Government and promote friendly relations between the two halves. The knowledge that Ministers with their responsibility for transferred subjects have also been a party to the allotments made for reserved subjects is calculated to induce in the Legislative Council a conviction of the necessity of those allotments and to minimize the chances of their seeking to cut them down. This will be of great moral value as it will curtail the necessity of the Governor's making use of his power of certification which cannot but cause friction and conflict between him and his Executive Council on the one hand and the Ministers and the Legislative Council on the other. The financial disposition of each year can be made with reference to the particular requirements of that year, there will be a much-needed and most useful element of elasticity imparted to the financial arrangements, and when a proposal of fresh taxation is made in the Council in these circumstances, the Legislative Council will easily persuade itself to accept it and support Government than it can be expected to do under a system of the "Separate Purse."

But the Devolution Rules seriously detracted from the advantages of the Joint Purse by keeping the port-folio of finance in the hands of a Member of the Executive Council. The Ministers thus had to look up to him and his Department for all schemes of

expenditure. In the financial powerlessness of the Ministers is to be found the chief cause of the failure of Dyarchy.

(96) V.—BUDGET UNDER DYARCHY

By the "Budget" is meant the statement of estimated revenue and expenditure of the financial year. We may distinguish four operations in connection with it. (1) Preparation of the budget; (2) the voting of the budget; (3) execution of the budget; (4) the enforcing of accountability.

(1) *Preparation of the Budget.*—As the financial year in India begins on the first of April, operations in connection with the budget have to begin as early as the preceding September. Various stages have to be gone through. Heads of Offices prepare estimates for expenditure which are then scrutinized by special controlling officers, by the Accountant's Department, and then by the Finance Department. Any new items of expenditure are scrutinized by the Finance Committee of the Legislature. The estimates as now revised and corrected are then considered collectively by the Government, and finally submitted to the Legislature.

(2) *Voting of the budget.*—The functions of the Council with respect to the Budget have been importantly enlarged under the Reforms. Formerly it could only hold a general discussion upon it or move Resolutions which were purely recommendatory. Now the Council votes upon the Budget item by item, as all Parliamentary bodies do. After the Budget has been presented to the Council by the Finance Member on the appointed day, it proceeds to deal with it in two stages: (*a*) general discussion and, (*b*) voting of demands for

grants. On a day appointed by the Governor subsequent to the day on which the Budget is presented, and for such time as the Governor has alloted for this purpose, the Council discusses the budget as a whole or any question of principle involved in it. At this stage no motion is moved, nor is the budget submitted to the vote of the Council. At the end of the discussion the Finance Member gives a general reply to the debate.

The second stage begins with the voting of grants. A separate demand is made in respect of the grant for each Department of Government. Demands affecting reserved and transferred subjects are shown separately. Not more than twelve days can be allotted by the Governor for the discussion of the demands and not more than two days for the discussion of a single grant.

The Council cannot make motions to increase or alter the destination of a grant. Only the Executive Government can do that. But the Council can move motions either to omit or reduce any grant or any item in the grant.

Special Precautions.—Now let us consider the precautions that have been taken to get over the difficulties to which this procedure may give rise. (*a*) In the first place certain charges of a special or recurring character, mentioned in Section 72D (3) *e.g.*, provincial contributions, interest and sinking fund charges, salaries of certain officials, judges etc., are exempt from submission to the vote of the Council; (*b*) the Governor has the power to authorise such expenditure as may be in his opinion necessary for the safety or tranquility of his province. (*c*) In view of the Council having the power of voting upon the Budget, the Governor has been armed with

the power of restoring grants. If the grant related to Reserved subjects, and if it is reduced or not assented to by the Council, and if the Governor certifies "that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject" he can restore it. The Joint Committee made it perfectly clear that this power of restoration was real and its exercise should not be regarded as unusual or arbitrary. "Unless the Governor has the right to secure supply for those services for which he remains responsible to Parliament, that responsibility cannot justly be fastened upon him." If the grant related to Transferred subjects, and if it was reduced or refused by the Council, the Governor, if he was so advised by the Ministers, would be justified in re-submitting the demand to the Council for a review of their former decision. Generally of course the opinion of the Council in the matter of transferred expenditure will be much more decisive than that regarding Reserved subjects. (*d*) With regard to transferred subjects the Governor has the right, in cases of emergency to authorise such expenditure as may in this opinion be necessary for the carrying on of any Department.

Cases of the restoration of grants that were either refused or reduced by the Councils were not rare. But on account of the tactics of the Swaraj Party Members in the Central Provinces and partly in Bengal, the Governors of those provinces were obliged to resort on a large scale to one or the other provisions of the Act to carry on administration.

(97) VI—GOVERNOR'S POWERS WITH REGARD TO LEGISLATION

We now turn to consider the powers of the Governor with regard to Legislation, which are both positive and negative.

Essential Legislation—In as much as the Governor-in-Council is responsible to Parliament for the reserved half he must have adequate power to secure the necessary legislation. As the Councils have been greatly enlarged and as they contain a substantial elective majority every Government Bill may not pass. The M. C. Report discussed various alternatives for securing "essential" legislation *e. g.*, getting the particular Bill (opposed in the Local Council) passed by the Governor-General-in-Council, or by the Governor-General, or by the Governor-in-Council, or by the Governor. In the end of the M. C. Report recommended the use of a "Grand Committee." If a Bill failed to pass in the Council, the best course for Government would be to drop it altogether; but if the Governor thought the Bill "esssential" then he was to refer it to the Grand Committee of the Council which was so composed as to have a majority of nominated members and which, therefore, would not oppose the Bill. But this proposal as to Grand Committee was totally rejected by the Joint Parliamentary Committee. They did so because, in their opinion, the Grand Committee did not give the Governor the power of securing legisation in a crisis in respect of those matters for which he is held responsible, and because, in respect of ordinary legislation about Reserved subjects, it perpetuated the system of securing legislation by what is known as

the " official bloc " which was the cause of great friction and heartburning in the Morley-Minto Councils. "The responsibility for legislation on Reserved subjects is with the Governor-in-Council, and when the official bloc has been put into operation, it has been put into operation by him, and is merely an indirect way of asserting his responsibility. The Committee think it much better that there should be no attempt to conceal the fact that the responsibility is with the Governor-in-Council, and they recommend a process by which the Governor should be empowered to pass an Act in respect of any reservd subject, if he considers that the Act is necessary for the proper fulfilment of his responsibility to Parliament. He should not do so until he has given every opportunity for the matter to be thoroughly discussed in the Legislative Council, and as a sensible man he should, of course, endeavour to carry the Legislative Council with him in the matter by the strength of his case. But, if he finds that cannot be so, then he should have the power to proceed on his own responsibility."

Effect has been given to this recommendation of the Joint Committee by 72-E which declares a Bill (rejected by the Council) to have passed on the Governor certifying "that the passage of the Bill is essential for the discharge of his responsibility for the subject."

As a safeguard against the abuse of this affirmative power of legislation, every such Act has to be reserved, an authentic copy being sent to him, by the Governor-General for the signification of His Majesty's pleasure, who may be advised by the Secretary of State, and the Act has to be laid before both Houses of Parliament. Provisions has been made

in the Act, however, for the avoidance of delay in case of a grave emergency by giving the Governor—General power to assent to the Act without reserving it, though this, of course, does not prevent subseqüent disallowance by His Majesty in Council.

Non-essential Legislation.—To turn next to the Governor's powers with regard to non-essential legislation. Relaxation of "previous sanction" will encourge the introduction of many Bills in the Council, and they may be amended in a manner which the Governor may not approve. In such cases, power of certification has been given to the Governor under 72-D (5) which should be carefully distinguished from the certification procedure of affirmative legislation mentioned above. In the former case a Bill or any clause or amendment thereof (introduced but not passed) certified by the Governor as affecting "the safety or tranquillity of his province, or any part of it or of another province" cannot be proceeded with.

A Bill may be not only introduced in the Council but passed by it. Then the Governor has either to assent to it or veto it. A frequent use of the veto-power is undesirable. The Governor can resort to an intermediate procedure of Return and Reservation— under S. 81 A (*a*). He may return such a Bill for reconsideration with any amendments that he may recommend or, (*b*) he may reserve the Bill for the consideration of the Governor-General. Reservation is either compulsory or optional according to rules mentioned below. (*c*) Within six months of such reservation the Governor may again return the Bill for further reconsideration, with the consent of the Governor-General. A Bill thus reaffirmed with or

without amendments, may be again presented to the Governor; (*d*) If a Bill, reserved for the consideration of the Governor-General, is not assented to by him within six months, it lapses, unless it has been, in the meanwhile, returned to the Council for reconsideration.

Reservation is compulsory for Bills (not previously sanctioned by the Governor, but passed by the Council) containing provisions (*a*) affecting the religion or religious rites of any class of British Subjects in British India; (*b*) regulating the constitution or functions of any University; (*c*) having the effect of including within a Transferred subject matters which have hitherto been classified as reserved subjects; (*d*) providing for the construction or management of light or feeder railways or tramways; (*e*) affecting the land-revenue of a province in the matter of period of settlement, or pitch of assessment or modifying materially the general principles of land-revenue assessment. Reservation is optional in the case of a Bill which appears to the Governor (*a*) to affect any matter wherein he is specially charged under his Instrument of Instructions, (*b*) to affect any central subject, or (*c*) to affect the interests of another province.

A Bill after it has been assented to by the Governor and presented to the Governor-General for his assent or veto, may be reserved by the Governor-General for the signification of His Majesty's pleasure.

The procedure of Reservation enables the Governor to ascertain the views of the Governor-General on important legislative projects, and the Governor-General also has the opportunity of examining the Bill at an intermediate stage.

The following Table will help the student in understanding the various stages at which the Governor can deal with the career of a Bill.

Before Introduction of a Bill:—	1 Previous Sanction §80 A (*c*). 2 Certification by the Governor 72 D (5). 3 ,, ,, ,, 72 E (1).
Before Passage by Council.	1 Certification 72 D (5). 2 ,, 72 E (1).
Before Assent by the Governor.	1 Return for reconsideration 81 A. 2 Reservation to the G. G. compulsory optional. 81 A-2 3 Return *after* reservation 81 A (2) *a*. 4 Veto by the Governor.
Before Assent by the G. G.	1 Reservation for H. M's signification 72 E (2). 2 Veto by the G. G. 81 A (3).

(98) VII—GOVERNOR'S POWERS WITH REGARD TO THE ADMINISTRATION OF TRANSFERRED SUBJECTS

Finally we come to the duties of the Governor with regard to the administration of Transferred Subjects. During the transitional period of Dyarchy, he is much more than the mere constitutional Head of the Province. He is responsible for the appointment of Ministers who hold office during his pleasure. But he cannot fix the pay of the Ministers which is to depend upon the vote of the Council. The Joint Committee say: "Ministers who enjoy the confidence of a majority in their Legislative Council will be given the fullest opportunity of managing that field of Government which is entrusted to their care. In their work they will be assisted and

guided by the Governor, who will accept their advice and promote their policy whenever possible. If he finds himself compelled to act against their advice, it will only be in circumstances roughly analogous to those in which he has to override his Executive Council—circumstances which will be indicated in the Instrument of Instructions." The Instrument says "In considering a Minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion, you shall have due regard to his relations with the Legislative Council and to the wishes of the people of the Province as expressed by their representatives therein."

The Joint Committee anticipated that the Ministers would generally act together. The experience of Responsible Government in England teaches us that it leads to the cabinet system. "It should be Recognised from the commencement that Ministers may be expected to act in concert together. They probably would do so; and in the opinion of the Committee it is better that they should do so."

Two principles emerge from the foregoing views of the Joint Committee: that the Ministers should have the confidence of the majority in the Council and that they should act together. It cannot be said that the experience of Dyarchy during its first four years was in keeping with these principles. This was due partly to the novelty of the whole experiment of Dyarchy, partly to the lack of experience of Representative Government on the part of many Members of the Councils, and partly to the unwillingness of some Provincial Heads to give a fair trial to Dyarchy. Thus there was no formation of parties in the Local Councils on secognised political grounds.

Members formed themselves into groups on communal grounds, and naturally the Governor, in making appointments of the Ministers either rewarded outstanding merit or tried to satisfy the claims of different communities. Only in Madras, it would seem, the Governor took the strictly constitutional course of inviting the Leader of the dominant Non-Brahmin Party to form a ministry. The position of Ministers appointed on either consideration was none-too-strong in the Council. The capable Ministers had no following in the Councils, and the others whom I may call "the Communal" Ministers failed to inspire and lead members of any but their own communities. The result was that the Ministers came to depend more upon the support of the Governor than upon the vote of the Council and to that extent Responsible Government was shorn of its real value.

Things might have been expected to improve in the recently elected Councils. The tendency towards the formation of parties on political and communal grounds was active. But an unexpected twist to the political situation deprived the Councils of all their usefulness. In the newly elected Councils, in those provinces where the Swarajists had a majority, (the Central Provinces and Bengal), the respective provincial Heads invited the leaders of those majorities to form ministries but the leaders refused to accept the responsibility of their dominant position.

Nor was the second principle namely of collective responsibility put into practice. In some provinces indeed, *e.g.*, Bombay, it was openly asserted that not only joint deliberation between the two halves of Government was a rarity but even the Ministers were not encouraged to pursue a common policy. The

Ministers were treated rather as heads of Departments than as responsible Ministers of the Council. One reason why the principle of Dyarchy fell into disrepute was the failure on the part of some Provincial Heads to encourage joint deliberation and collective responsibility.

Dwelling upon the relations between the Governor and the Ministers, the Joint Committee say "The Committee are of opinion that the Ministers selected by the Governor to advise him on transferred subjects should be elected members of the Legislative Council, enjoying its confidence and capable of leading it. A Governor will have the ordinary constitutional right of dismissing a Minister whose policy he believes to be either seriously at fault or out of accord with the views of the Legislative Council. In the last resort the Governor can always dissolve his Legislative Council and choose new Ministers afresh after a fresh election; but if this course is adopted the Committee hope that the Governor will find himself able to accept such views as his new Ministers may press upon him regarding the issue which forced the dissolution."

Political events in India during the last three years have given rise to strange constitutional problems. The Swarajists, (in C. P. and Bengal) by successfully carrying motions for the reduction of the salaries of Ministers to a nominal sum, showed their want of confidence in them, with the result that the Governors could not persuade any members of the Council to become their Ministers, and had to resort to exceptional powers under the Act. Thus instead of a series of crises arising between the Official half on the one hand, and the Ministers and the Council on the other (the

kind of conflict anticipated and provided for by the Joint Committee), we have the deplorable spectacle of a dominant party in the Council having made " Dyarchy " impossible by driving out office Ministers and by throwing out the budget.

Temporary Administration of Transferred Subjects :—In addition to these normal powers of the Governor for the appointment of Ministers, he has also the power of the temporary administration of a Transferred Subject during a ministerial vacancy. Cases of individual ministerial resignations had occurred in the past but there was no difficulty in filling up the vacancy. But on account of the obstructionist policy of the Swaragists, resort had to be had to the "Transferred Subjects (Temporary Administration) Rules." They provide that in cases of emergency when owing to a vacancy, there is no Minister in charge of Transferred Subject, the Governor (*a*) shall, if another Minister is available and willing to take charge of the subject, appoint such minister to administer the subject temporarily or, (*b*) may, if the vacancy cannot be provided for in the manner aforesaid, himself, temporarily administer the Subject. The Governor has to certify in writing that an emergency has arisen and forward a copy of the certificate to the Governor-General in Council for information. It is *temporary* administration in an *emergency* by the *Governor in person* that must be carefully noted. The Governor-in-Council has nothing to do with the Transferred Subject. Nor can he re-transfer Transferred Subjects to the Reserved category. The power of re-transfer, in any case, is a confession of the failure of Dyarchy and reversion to the one-man rule of the pre-Reforms days.

In will be observed that this is a temporary

arrangement. If the ministerial vacancy or vacancies are likely to last long, Rules provide that "the Governor-General in Council may, by notification in the *Gazette of India*, with the previous sanction of the Secretary of State in Council, revoke or suspend for such period as he may consider necessary the transfer of any provincial subject in any province, and upon such revocation, or during such suspension, the subject shall not be a Transferred Subject." This is just what has happened in Bengal. With the re-transfer of Transferred Subjects to the Governor-in-Council Dyarchy disappears.

(99) VIII—GOVERNOR AND THE SERVICES

But the difficulties of Dyarchy are not confined only to the Council Chamber. The position of the Public Services has been profoundly altered under the Reforms. So far as the Transferred Departments are concerned the Services (*a*) must serve under Indian Ministers, and (*b*) instead of initiating policies, must carry out the policies of the Ministers and the Council. Many members of the Services looked with disfavour upon the Reforms not only because their personal position and prospects were adversely affected by them, but also because they doubted the wisdom of the change. The duty of keeping the servants satisfied has been cast upon the Governor. "The Committee think that every precaution should be taken to secure to the public servants the career in life to which they looked forward when they were recruited. If friction occurs, a readjustment of persons and places may often get over the difficulty, and the Governor must always regard it as one of his most important duties to establish a complete understanding

between his Ministers and the Officers through whom they will have to work."

Section 96-B of the Act and Rules made thereunder safeguard the interests of public servants. Servants appointed by the Secretary of State who do not get satisfactory redress of their grievances from their official superiors are to complain to the Governor and obtain justice. Again, no order adversely affecting the emoluments or pensions, no order of formal censure, or of effecting the transfer of officers can be passed without the personal concurrence of the Governor. The Instrument of Instruction issued to the Governor upon his appointment emphasizes his duties in this connection.

It happened, however, that even in spite of all these precautionary measures, many public servants could not continue their service under the changed environment of the Reforms. It would seem that as many as 337 Officers of the All-India Services permaturely retired from service by the end of December 1923 "in view of changes in the conditions of service occasioned by the Government of India Act of 1919."

On the other hand the Ministers complained of their absolute lack of voice in the appointment of or control over their servants in the Transferred Departments. The whole position was carefully considered by the Lee Commission whose Report will be considered presently in connection with the criticism of Dyarchy.

(100) IX—LINKS BETWEEN THE EXECUTIVE AND THE LEGISLATURE

The Reformed Councils cannot be said to have fully served their purpose if they did not afford opportunities to the Members to get an insight into the details of

administration and the intricacies of parliamentary procedure. Not only would such insight make their criticism at once sober and effective, but it would train at least some of them to fill with distinction the role of ministers in course of time. S. **52** (4) provided one method of bringing this about. It gave the Governor the discretion of appointing from among the Non-official Members of his Council, Council Secretaries who hold office during his pleasure and discharge such duties in assisting Members of the Executive Council and the Ministers as he may assign to them. The pay of the Council Secretaries, however, was to depend upon the vote of the Council. Their position was analagous to that of Parliamentary Under-Secretaries in England. But this power was not much used in practice. Only in two or three provinces *e.g.* Madras, Central Provinces, and the Punjab, it would seem, such appointments were made. Perhaps the association of such Non-official members with administration is not quite easy during the present transitional period.

We may also refer to the appointment of Standing Committees as serving the same purpose. The Joint Committee said "It may often greatly assist the political education of India if Standing Committees of the Legislative bodies are attached to certain Departments of Government." In most Provinces Standing Finance Committees which perform important advisory functions in connection with new schemes of expenditure are appointed. In one or two Provinces *e. g.*, Bengal and the Punjab, such Standing Committees were appointed in association with almost every Department of Government.

In the case of Legislation, the practice of referring a Bill, after its first reading to the Select Committee,

has become too general to require more than a passing reference.

(101) X.—CONTROL OVER PROVINCIAL EXPENDITURE

Official Control.—There is one particular aspect of Administration, namely, the Financial, where the Council has to be most vigilant. This is all the more necessary on account of the relaxation of Official control over Provincial expenditure in Transferred Subjects. The place of official control is to be taken by popular control in the Legislative Council. We shall examine separately the control exercised by the offical agency and by the popular agency over provincial expenditure. We may consider Official control under the following heads.

(*a*) Control by the Secretary of State in Council.
(*b*) Control by the Governor-General in Council.
(*c*) Control by the Finance Department.
(*d*) Control by the Audit Department.

Control by the Secretary of State in Council.—This control will vary according as the subject is Transferred or Reserved. Regarding expenditure over Reserved Subjects, the Joint Committee thought it unnecessary and undesirable to prescribe by statutory Rules under the Act of 1919 the extent to which the Secretary of State in Council was to delegate his powers of control to the Provincial Government. But in purely Provincial matters where the Provincial Government and Legislature were in agreement regarding the desirability of incurring expenditure on them he may allow the Governor in Council to dispense with his previous sanction if he so desires. But all such delegation must be by executive orders of the State Secretary and not by Rules under the Act.

It is otherwise with regard to the Transferred Subjects. In connection with them the Joint Committee rightly drew attention to the intention of the Act of 1919 that such expenditure should be, with the narrowest possible reservations, left within the exclusive control of the Provincial Legislature. But though the widest freedom is desirable the Secretary of State in Council must have some control—though defined by Rules under the Act—over expenditure on Transferred Subjects which is likely to affect the prospects or rights of the all-India services which he recruits and controls, or the purchase of Stores in the United Kingdom. In all such cases of expenditure, the previous sanction of the Secretary of State in Council is required.

Control by the Governor-General in Council.—He has no independent powers of control now left to him. This is particularly true of Transferred Subjects. Regarding Reserved Subjects, all applications for the previous sanction of the Secretary of State in Council are in the first instance to be made to the Governor-General in Council who may either agree with them or disagree with them. In all cases the provincial applications have to be forwarded to the Secretary of State in Council.

In the Chapter on Provincial Devolution we have already considered the position of the Finance Department and of the Audit Department.

Popular Control: The Committee on Public Accounts.—We then come to the control to be exercised by the Legislature. The enlarged power of voting upon the budget is a way of establishing this control. But as the budget-discussion lasts only for some days, the Council ought to have some means of watching the

financial doings of the Executive throughout the year and of getting rectified any irregularity in or departure from strict adherence to the budget arrangements that it might come across. For this purpose, in each Council, at the commencement of the financial year, a Committee on Public Accounts is appointed. Its object is "to deal with the Audit and Appropriation accounts of the Province and such matters as the Finance Department may refer to the Committee." Two-thirds of the Members of this Committee are appointed by the Non-official members of the Council, the remaining being nominated by the Governor. The Finance Member is the Chairman of the Committee. It is the duty of the Committee to satisfy itself that the money voted by the Council was spent within the scope of the demand granted by the Council. It is also the duty of the Committee to bring to the notice of the Council every departure from the budget arrangement which it may have detected or which the Finance Department may bring to its cognisance. The Committee on Public Accounts should be distinguished from the Standing Finance Committee which deals with *new* schemes of expenditure. The Finance Committee deals with *projects* of expenditure, the Committee on Public Accounts deals with expenditure *after* it has been incurred.

(102) XI—CONTROL OVER ADMINISTRATION

In the Chapter on Provincial Devolution we saw how the control over provincial administration was relaxed. But the Provinces cannot be made quite independent of the Central Government so long as the latter is held responsible to Parliament for the whole of India. The control of the Secretary of State,

therefore, must continue, though to a defined and diminished extent. The Joint Committee came to the conclusion that "there was no necessity of disturbing the then existing state of relations, except to the extent to which the Secretary of State relaxes his powers of direction and control over Local Governments. To that extent the Government of India also will withdraw from intervention; but India is not yet ripe for a true federal system and the Central Government cannot be relegated to the functions of mere inspection and advice. The Committee trust that there will be an extensive delegation, statutory and otherwise, to Provincial Governments of some powers and duties now in the hands of the Government of India; and they trust also that the control of that Government over provincial matters will be exercised with a view to preparing the provinces for the gradual transfer of power to the Provincial Government and Legislature."

Now having regard to the circumstance that provincial matters will be henceforward of two kinds—Reserved and Transferred—it is necessary to examine further the purposes for which the Central Government might interfere with them, for it is evident that the occasion and extent of intervention must depend upon whether the particular subject was Reserved or Transferred.

In the case of Transferred Subjects, the Government of India and the Secretary of State can interfere only for specific purposes. Thus Devolution Rule 49 lays down "The powers of superintendence, direction, and control over the Local Government of a Governor's province, vested in the Governor-General in Council under the Act shall, in relation to Transferred

subjects, be exercised only for the following purposes:—

(1) To safeguard the administration of Central Subjects.

(2) To decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at any agreement.

(3) To safeguard the due exercise and performance of certain powers and duties imposed upon the Governor-General in Council by the Act, or by Rules made thereunder.

The case for Reserved subjects is not so simple. Here the intervention cannot be limited to specified occasions. The general principle is "that an official Provincial Government must remain amenable to the Government of India, the Secretary of State and Parliament in matters in which it is not amenable to the Local Legislature." The Joint Committee accordingly laid down: "The relations of the Secretary of State and of the Government of India with provincial Governments should, in the Committee's judgment, be regulated by similar principles, so far as the reserved subjects are concerned. It follows, therefore, that in purely provincial matters which are reserved, where the Provincial Government and Legislature are in agreement, their view should ordinarily be allowed to prevail, though it is necessary to bear in mind the fact that some reserved subjects do cover matter in which the Central Government is closely concerned." Commenting upon the Rules made to give effect to this principle, the Joint Committee say: "The Committee consider that no statutory divestment of control except over the transferred field, is either necessary or desirable. It is open to the Secretary of State to entrust large powers,

administrative and financial, to the Governor-General in Council and the Provincial Governors in Council; and he will no doubt be largely influenced in deciding whether or not to require reference to himself in any given case or whether to interpose his orders where reference has been made, by the attitude of provincial public opinion as expressed in the Provincial Legislative Council. But these matters cannot be regulated by statutory rules and any authority which the Secretary of State may decide to pass on to the official Government in India will be a mere delegation of his own authority and responsibility, for the discharge of which in relation to the Central and Reserved subjects he must remain accountable to Parliament."

With regard both to transferred and reserved subjects the Provincial Governments must supply information and returns in the form required by the Central Government.

(102-A) XII.—FOUR YEARS OF DYARCHY

Agitation for more Reforms:—Now that the scope of the Reforms in the Provinces has been fully described, it would be proper to pass under review the working of Dyarchy during the last four years. There is no harm even if such a review is taken before describing the changes introduced in the Central Government because those changes are not radical. Material for a criticism of Dyarchy is abundant for Dyarchy was recently subjected to a close examination by a Committee under Sir Alexander Muddiman appointed by the Government of India.

As the Montagu-Chemlsford Reforms introduced 'Dyarchy' as a transitional measure in the provinces, and as they did not relax the responsibility

of the Government of India to Parliament which took upon itself to define the 'time and manner' of India's advance towards Responsible Government, they almost invited popular agitation in India for further Reforms.

Parliamentary Commission.—The way in which Parliament proposed to judge of India's fitness for further advance towards Responsible Government was by the appointment of a Parliamentary Commission in 1929. A periodic Commission to inquire into Indian conditions was an integral part of the Montagu-Chelmsford Scheme. The Government of India Act with its novel device of Dyarchy in the provinces made the appointment of some such Commission inevitable. "Dyarchy" by its very nature was a transitional form of Government. It was a half-way house to Responsible Government. Sir Courteny Ilbert compared it "to one of those caravansaries which would be run up rapidly for an Indian Prince to meet a temporary need, and which could be easily removed or transformed when the need had passed.*

But this temporary structure would not satisfy Indians. Another metaphor would bring out the opposing points of view of looking at the Constitution. Lord Oliver, the Secretary of State for India in the late Labour Government compared the Government of India Act to a sea-worthy vessel and said that it should carry Indians across if only they would get into it and row. To this Pandit Motilal replied: It may be sea-worthy but what we want is not only a sea-worthy vessel but a vessel big enough for our cargo, big enough to accommodate the millions of passengers that have to cross over from servility to

* Ilbert and Meston, 13.

freedom. (Debate in the Assembly on 10th March, 1924).

The case for the appointment of a Commission for the revision of the Constitution was thus put by Sir William Duke: "It seems certain that the working of a measure which is experimental in character, and even if completely successful will only have provided an instalment of the objects stated in its preamble, must in any case be brought under review, at no very distant date. There are obvious dangers in fixing that date in advance, particularly in case it should prove too remote. These objections should, however, be out-weighed by the inducement to make the best of a system which must continue for a definite period, and by the patience which should result from the knowledge that there will be a certain and not too distant opportunity for consideration of the case for further advance."

The warning here given of the danger of fixing a distant date for revision did not prove unfounded. Within two years of the passing of the Act, the Legislative Assembly passed a Resolution (in September 1921) recommending that the Secretary of State, in view of the progress made by India on the path to Responsible Government, should get a re-examination or revision of the Act at an earlier date than 1929. But this Resolution came after the resignation of Mr. Montagu and the advent of the Conservative Ministry to power under Mr. Bonar Law. The Secretary of State for India in that Ministry—Lord Peel—did not see the necessity of amending the Act so soon. He maintained that the Constitution of 1919 was sufficiently elastic, and that there was considerable room for progress within the

structure of that Constitution without amending it. Again though the Indian Legislatures had given proof of their merits, the merits and capabilities of the electorate who are the last foundations of Responsible Government were not tested by time and experience. And finally, he argued, that the experience of six months was too limited to form a just estimate of the success or otherwise of the new provincial Executives."

Development in India:—Three things happened in the meanwhile which brought the question of the revision of the Constitution to the forefront. (1) The dissatisfaction with, and hostility to, the Reforms on the part of a small section of the European element in the Public Services were openly avowed both in India and in England. Many were even prepared to retire from the Indian Service; and fewer English youths were forthcoming as candidates for recruitment. The question of the improvement of the prospects of the Public Services was pressed upon the Conservative Government which finally appointed the "Lee Commission" to go into that question. The appointment of this Commission was used as an argument in favour of reviewing the whole Constitution of India. (2) Then the Labour Party under Mr. Ramsay MacDonald came to power in England and the expectations of political reformers in India were quickened. It was felt that, in any case, further instalments of Reforms must come from Parliament. Hence Parliament has to be made to realize the expediency of revising the Indian Constitution earlier than the prescribed ten years. One form which the movement for winning over Parliament to this view has assumed may be noted *viz.* The Commonwealth of India Bill as drafted by Dr. Annie Besant and her

influential friends. After the Bill has received sufficient popular support in India, it is to be manouvred through British Parliament. (3) But a large volume of Indian public opinion depended more upon agitation in India than upon currying favour with Parliament in England. Political parties in India, so far as entry into the Councils was concerned, assumed three forms. (*a*) There were the "No-changers" *i. e.*, those who did not see any reason to change the Congress Creed of boycotting the Councils; (*b*) then there was the growing party of the Swarajists who wished to enter the Councils with a view to 'wreck' the Reforms. (*c*) And finally, there was the small party of those who had accepted the Reforms from the very first. Soon after their entry into the Councils—Central and Provincial—and finding themselves in sufficient strength in some of them, the Swarajists followed the tactics of 'obstruction' and 'paralysation' of Government, by refusing to accept the responsibility of forming ministries, by making it impossible for the Governor to appoint other Ministers, by throwing out the budgets, and by other means. In the Legislative Assembly, largely owing to the personal ability and astute leadership of Pandit Motilal Nehru, after the programme of "wrecking" the Reforms and "bringing the Government to their knees" had been gone through, the following Resolution as an amendment to the original Resolution of R. B. T. Rangachariar—recommending an early revision of the Government of India Act with a view to secure for India full Self-governing Dominion status within the British Empire and provincial autonomy in the provinces—was adopted: This Assembly recommends to the Governor-General in Council to

take steps to have the Government of India Act revised with a view to establish full Responsible Government in India, and for the said purpose: (*a*) to summon at an early date a Representative Round Table Conference to recommend; with due regard to the protection of the rights and interests of important minorities, the scheme of a Constitution for India; and (*b*) after dissolving the Central Legislature, to place the said scheme for its approval before a newly elected Indian Legislature and submit the same to the British Parliament to be embodied in a Statute."

The mode of bringing about a change in the Indian Constitution herein recommended is quite different from that contemplated by the Government of India Act of 1919. The Resolution embodies the principle of "Self-Determination." But this is an ambiguous expression. It begs two questions in as many words, as pointed out by Mr. Curtis—whether the community in question is a separate political unit, and if so, whether it is entitled to determine issues affecting other political units as well as itself. The question of Self-Determination does not arise so long as India remains an integral part of the British Empire.

The *modus operandi* of revising the Constitution must be such as is acceptable to the British Nation and Parliament. As was well pointed out by Sir Shivaswamy Aiyer in the Debate in the Assembly " There are two ways of achieving self-government: one is the persuasion of the British people, and the other is coercion. The latter is out of question. The intermediate step of obstruction or paralysation of Government is not likely to be successful. The powers of the Governor-General for certification and restoration are sufficient for all purposes. Under certain conditions,

where you have Responsible Government, obstruction is perfectly proper as a part of the game; but where we have still to get full Responsible Government, then we have to recognise the fact that the matter is in the hands of the British Nation. Any policy of obstruction can only lead to one result and will give a tremendous set-back to our progress."

Attitude of the Government of India:—In spite of the Resolution of Self-Determination that was passed in the Assembly, the Government of India were not prepared to press the Secretary of State for the amendment of the Act. They adopted a most cautious attitude. They did not even accept the suggestion made by Indian Liberals like Sir Tej Bahadur Sapru of getting appointed a Royal Commission to go into the whole question. A Royal Commission is at once a recognized and authoritative method of proceeding in such cases. And it was in no way inconsistent with the Government of India Act. It was made sufficiently clear that no Parliament can bind its successors, and even the present Parliament is perfectly competent to amend the Act if it wished to do so. But as Sir Malcolm Hailey said "Before His Majesty's Government are able to consider the question of amending the Constitution, as distinct from such amendments of the Act as are necessary to rectify any administrative imperfections, there must be a full investigation of any defects or difficulties which may have arisen in the transitional Constitution. Neither they nor we would be justified in considering changes to that Constitution until they were in possession of the information which our investigations would place in their hands. If the proposed inquiry into the defects of the working of the Act shows the feasibility and possibility of any

advance within the Act,—that is to say, by the use of the Rule-making power provided by Parliament under Statute, we are willing to make recommendations to that effect. But if our inquiry shows that no advance is possible without amending the Constitution, then the question of advance must be left as an entirely open and separate issue on which Government is in no way committed."

Powers of Rule-making under the Act:—It is important to understand the provision of making Rules under the Act of 1919. A merit of the new Constitution of India is its elasticity. This it owes to an extensive use of what has sometimes been called delegated legislation, not directly by Parliament, but by Rules and Orders made under an authority given by Parliament. Ever since Parliament has taken to legislating for India, this method has been extensively adopted in dealing with Indian subjects......the reasons for adpoting it being the impossibility of enabling or persuading Parliament to afford the time necessary for the consideration of Indian details, and the importance of enabling alterations to be made without the passage of an amending Act. Nowhere has the policy of giving and using delegated power been carried farther than in the Act of 1919......The subjects with which the Rules deal are of great variety and importance. They include the constitution and procedure of the Indian Legislatures, and the important subject of Devolution, and many others."*

A second reason why a great deal was left to be filled in by Rules was the transitional and experimental character of the new Constitution. It would be impossible to trespass upon "the overburdened and

* Ilbert and Meston 28-30.

over-mortgaged time" of Parliament, as Mr. Montagu put it, to amend the *Act*, though a particular defect can be easily removed by change in *Rules* made under the Act.

But we must not be blind to the danger of delegating such extensive powers to the Executive. Elasticity may be purchased at the high price of defeating the very object of the Constitution. It is true that the Rules are required to be laid before Parliament for sanction, but this safeguard may often prove useless. It has been complained that the Rules made under the Act have "whittled" down the liberal intentions of the Act of 1919. Hence the necessity of exploring all the possibilities of transferring power to the people by this process of Rule-making. The Government of India were prepared to undertake this inquiry, though not prepared to recommend an amendment of the *Act* itself.

Preliminary Enquiry:—The "Departmental" Committee foreshadowed in the speech of Sir W. Hailey was appointed under the chairmanship of Sir Alexander Muddiman, the new Home Member, but its deliberations were kept secret. This Committee conducted a preliminary examination into the question and collected material for being placed before a larger Committee which consisted of 12 members with a non-official majority.

Reports of the Reforms Enquiry Committee—The larger Committee consisted of twelve members among whom may be mentioned Sir Alexander Muddiman (Chairman), Sir Mahamad Shafi, Sir Arthur Froom, Sir Tej Bahadur Sapru, Sir Shivaswami Aiyer, Mr. Jinna, and Dr. Paranjpye. It is to be regretted that the Committee could not draw up a unanimous Report or

make unanimous recommendations. They made a Majority (Official) Report, and a Minority (Non-official) Report.

This was to be expected as the two halves of the Committee fundamentally differed as to the interpretation of their terms of reference. The Majority felt that they could make only such recommendations as would remove the administrative deficiencies of the Act, and would be consistent with the scope and purpose of the Act. They, therefore, took the position that the Scheme of Dyarchy was a workable Scheme, that it had not 'failed' any where, that such improvements as were called for could be made by changes in the Rules under the Act, that they did not require any substantial amendment of the Act itself, and that, therefore, such proposals as the grant of Provincial Autonomy, or the introduction of responsibility in the Central Government, could not be entertained. The Minority on the other hand, postulated that Dyarchy, in spite of adverse conditions, had had a fair trial, that it was found to have inherent defects of its own which no changes in the Rules could possibly remove, and that the failure of Dyarchy pointed the way to such a substantial amendment of the Act itself as would make possible the grant of Provincial Autonomy or the introduction of responsiblity in the Central Government.

But though the two Reports differ from each other, on principle, as to their recommendations, it is still possible, with the help of both, to present a view of the working of Dyarchy which is in substantial agreement with facts.

External Difficulties of Dyarchy:—We may begin

with those difficulties of the provinces which belonged rather to their general environment than to the Dyarchic form of Government that was set up in them. These difficulties were three in number: (1) heterogeneous formation of the Provinces; (2) backwardness and inexperience of the electorates; (3) absence of provincial autonomy. We shall consider them *seriatim.* (1) Reference has been made to the haphazard manner in which the Provinces assumed their present configuration under historical forces. A redistribution of provinces in greater conformity with the race or language of the people would go a long way in fostering their interest in political matters. Again some provinces are very large. Section 52 A gives to the Governor-General in Council the power of redistributing the provincial boundaries. But the Joint Parliamentary Committee rightly pointed out that the existing boundaries of a Province should not be changed without due consideration of the views of the Legislative Council of the Province. It is clear, however, that the process of redistribution in any case is bound to be a very very slow one on account of administrative and financial difficulties, if for no other reason, and it would be unwise to put off Reforms till that redistribution takes place.

(2) *Electorates:*—Responsible Government requires an intelligent and trained electorate. Roughly those who have the franchise form about a tenth part of the male population, and though there are undoubted signs on their part of increased interest in political affairs, it can not be said that a majority of them have appreciated the responsibility of the vote. Education in this respect can come only with experience.

A serious difficulty in the political training of the

electorate is offered by the existence of communal representation. Those communities which have got the privilege are naturally not willing to give it up. The Majority Report admits that communal representation is an obstacle to political advance "but we consider that the abolition of any special communal electorates, and in this we include reserved seats, is quite impracticable at the present time." (§69). The Minority Report, on the other hand, says that the difficulties arising out of Communal tension are a passing phase in politics and should not be emphasized; that sincere efforts are being made by the leaders of the Hindu and the Mahomedan Communities to come to some agreement on the points at issue; that the conditins precedent for the success of such efforts are (1) the frank recognition by each community of the principles of religious freedom and the cultivation of habits of toleration; (2) the effective safeguarding of the interests of minorities in respect of their political representation; (3) the adequate representation of duly qualified members of each community in the Public Services of the country.

But the Minority Report maintains that though the difficulties are there, they are not insuperable, and "by the mere postponement of the solution of questions connected with constitutional advance not only will no useful purpose be served but that it may make the task more difficult in the future." (Page 179).

There is agreement that much more representation should be given to the Depressed Classes and the Labouring Classes—though there is difference of opinion as to whether this should be secured by nomination or election.

The Majority is generally satisfied with the franchise as it is; the Minority wants it to be lowered.

The object of the foregoing proposals is to have in the Councils representatives of the electors who can form parties on political lines (and not combine into groups on communal considerations as they do at present), who are pledged to their electorates to carry out definite reforms, and who will, therefore, support or defeat Ministers according as the latter serve them. The absence of such political parties in the existing Councils weakens the position of the Ministers who come to depend more and more upon the Governor, or the 'Official bloc' in the Council, or 'a Ministerial party.' Here also there are signs that the communal is yielding to the political tie.

(3) The third external obstacle in the working of Dyarchy is the absence of autonomy in the provinces. Now 'Provincial Autonomy' has been differently defined and understood by the Majority and the Minority. The Majority holds that there must be a Central Authority which will exercise definite control over the provinces and at the same time be responsible to Parliament. The control will be more or less but it will be there. The Minority, though it allows some control to the Central Government, wants it to be made, to some extent at any rate, responsible to the people. A Government of India—consisting of an irremovable Executive, and responsible to Parliament as at present, is incompatible with autonomous Local Governments.

Apart from this vital difference of opinion, both the Reports agree that in the matters of administration, legislation, and finance the provinces should enjoy greater and more definite powers than they do at present. With this object in view the lists of 'Central' and 'Provincial' subjects should be carefully revised;

and in legislation, the requirement as to 'previous sanction' should be considerably relaxed. But it is in the financial powers of the provinces that improvement is urgently needed.

Reference has already been made to the Meston Settlement of the financial relations between the Central and Provincial Governments. It satisfied neither. It assumed that there would be enough funds to meet the demands of the Central and Provincial Governments, and proceeded to divide a surplus which was non-existent. The Meston Committee provided, by means of Provincial contributions, for a deficit of about 10 crores of rupees in the Central Government. But as a matter of fact during the three years 1920—1923 there was an actual deficit of about 68·5 crores in the finances of the Central Government. It is only during the last year that its condition improved and the prospect of remitting the contributions was held before some provinces. But, as previously indicated, this is a very complex question, and is being inquired into by the Taxation Inquiry Committee.

What we have to emphasize here is that the provincial contributions—though they were not able to lesson the difficulties of the Central Government—proved a great handicap on the working of the Reforms in the provinces. The Ministers had not the where withal to launch programmes of Education, Sanitation or Industrial improvement, and thus they could not demonstrate the value of the Reforms to the electorates.

Specific Allegations against Dyarchy:—Having considered the external difficulties of Dyarchy let us next take up those that arise out of its basic idea

namely, the division of functions between the two halves of Government.

The specific allegations against Dyarchy, according to the analysis of the Majority Report, are the following.

(i) The impinging of the administration of reserved upon the administration of transferred subjects, and *vice versa*.

(ii) The failure to encourage joint deliberation between the reserved and transferred sides of the provincial Governments.

(iii) The absence of joint responsibility of the Ministers.

(iv) The failure of the Constitution to vest real authority in the Ministers, owing to the control of—

(*a*) the Governor ; and

(*b*) the Government of India and the Secretary of State.

(v) The vesting of the control of the Finance Department in a Member of the reserved side of the Government, the control thus given to the reserved side over the Ministers and, generally speaking, the handicapping of the other departments by excessive financial control.

(vi) The failure on the part of permanent Officials to co-operate with the Ministers.

'*Mixed' Dyarchy*:—To begin with it should be noted that Dyarchy as actually constituted in the provinces is not of a 'pure' type. Real 'Dyarchy' would involve

(*a*) a division of functions that is absolute and final, and in which one side of Government cannot interfere with or influences the other.

(*b*) The Governor-in-Council absolutely responsible to the Secretary of State for the Reserved half; and the Ministers absolutely responsible to the electorates for the Transferred half.

(*c*) The two halves of the Executive to have separate and distinct (*a*) Legislatures, (*b*) finances, (*c*) set of permanent Officials for the purposes of administration. The Officials can not be members of the popular Legislature; each half would have a 'separate purse' with distinct powers of taxation and borrowing; and finally, neither half can use the same set of Officials as their subordinates. In fact pure Dyarchy requires a 'vertical' division of provincial functions, with a separate legislative organ, financial powers, and administrative machinery from top to bottom.

It is clear that Dyarchy as actually set up departs from the 'pure' type in every item and hence arise its practical difficulties which we will now consider in the order given above.

(i) *The Impact of the two halves of Government under the Devolution Rules.* The power of deciding to which half a particular case belonged was vested in the Governor and he had to exercise this power frequently, and as one witness put it, doubtful cases were kicked from one department to another like a football. Each half should have been given every opportunity to have its own say in the matter, but this was not always possible or actually done. The Minority Report regards this as an inherent defect of Dyarchy. "It is by no means difficult to conceive that the points of view of popular Ministers and the Members of the Executive Council who owe no responsibility to the Legislature and at

least half of whom are brought up in official traditions from the start of their career should not infrequently vary and lead to unsatisfactory result." (Page 154). The Majority, however, believes that Dyarchy would work more smoothly if the division of functions is re-made upon a more scientific basis.

(ii) *Joint Deliberation*—The dictum of the Joint Parliamentary Committee on this point was quite clear. It desired the Governor to resort to joint deliberation as frequently as possible, though the practice was left to be fixed by conventions rather than by Rules.

As a matter of fact, however, each Governor acted according to his own discretion, and joint deliberation was consistently adopted only in one or two provinces. The Majority Report recommends that to secure the proper working of Dyarchy, a definite Rule should be made under the Act that questions of importance should be considered by the Governor sitting at a joint meeting with the Executive Councillors and the Ministers.

The Minority, on the other hand, conclude that joint deliberation, though consistently adopted as a principle, would not remove the inherent defect of Dyarchy. "Indeed it seems to us that at times it is likely to weaken the position of the Ministers *vis-a-vis* the Legislative Councils and the electorates in relation to Reserved subjects, more particularly when there is occasion for difference of opinion in regard to questions of policy between the Legislature and the Executive. We are anxious to safeguard ourselves against conveying the impression that given Dyarchy to work, we do not appreciate the value of joint deliberation between the two halves of Government, but we maintain that it is an inherent defect of the present

Constitution that the Government should be divided into two halves."

(iii) *Joint Responsibility.*—As in the case of Joint deliberation, this also was left to be secured by convention. But the Governors, in the appointment of Ministers could not always pay due regard to their position in the Legislature; and after appointment, they were consulted individually and not collectively. As the Majority point out, "The difficulties in the way of establishing joint responsibility in India are doubtless great. It is, for example, difficult to select Ministers from a single well-organized party, and this is particularly so where the main Hindu and Mahomedan Communities are keenly divided in a Local Council or where there are other communal differences of an acute character. Joint responsibility practically also involves the recognition of a Chief Minister, and the difficulties to which we have just adverted are thereby enhanced; but we do not wish to suggest that these difficulties are insurmountable. We are convinced that joint responsibility of the Ministers is of the very essence of the present Constitution. The object of the Reforms was not merely to train Indians in administration; that could have been secured by other means. The object was to introduce an approach to cabinet government for the transferred side of the administration, and until this is accomplished, there will be, in our opinion, little training in responsible government."

The Minority attach so much importance to joint responsibility that they suggest an amendment of the Act itself to place it beyond doubt.

(iv) *Control of the Governor.*—That there was undue interference with the actions of Ministers in some

provinces is admitted and was to be expected. But in so interfering the Governor was acting within his powers. In the administration of Transferred subjects the Governor can take action otherwise than in accordance with the advice of his Ministers. Thus he is more than a mere constitutional head with reference to the Tranfrerred subjects. The Majority is not prepared to put any limitations upon the power of the Governor; but the duty of the Governor not to dissent from the opinion of his Ministers except in certain cases should be explicitly laid down in his Instrument of Instructions.

Strong objection was taken to one practice which seriously undermined the position of a Minister in his relation with the Governor and the subordinate Department, the practice, namely, of the Departmental Secretary having access to the Governor independently of the Minister. No doubt Secretaries of the Reserved Departments have also a similar access to the Governor. But the practice becomes anomalous when extended to the Transferred Departments, even when it be admitted that the Governor is more than a constitutional head of the Transferred subjects and that the Secretaries are Secretaries of the Departments and not Secretaries of Ministers or Members of the Executive Council. But the Majority recommend that "to remove the suspicion that this right is capable of of being used to influence the Governor behind the back and without the knowledge of the Minister, a rule should be included in the Rules of Business requiring the Secretary in the Department or other officer with a right of direct access, to inform his Minister of every case where there is a difference between them and of all other important cases which he proposes to

refer to the Governor" §102 (6).

As regards the control of Ministers arising out of the powers of " superintendence and direction" vested in the Governor-General in Council and the Secretary of State, the Majority and the Minority agree that there should be as much relaxation as possible. This relaxation will be effected rather by convention than by any divestment of authority on the part of the Government of India or the Secretary of State.

(v) *The Finance Department*:—The constitution and functions of the Finance Department have been already described. The existing arrangements have been criticised on two grounds: (1) that the control exercised by the Department was excessive and (2) that the Department was in charge of a Member of the Executive Council and not of a Minister.

The object of reconstituting the Finance Department when the Reforms were introduced was that it should exercise the control that was hitherto exercised by the Government of India. In all forms of Government there is some Department analogous to the Finance Department for expert advice and control. But it was complained that the Finance Department, in addition to furnishing financial advice, tried to control the policy of the Ministers. The control was felt to be particularly irksome on account of the financial stringency from which all provinces suffered ever since the Reforms were introduced. It should be made quite clear that the functions of the Finance Department—so far as Transferred subjects are concerned—are of an advisory and not of controlling nature, the financial responsibility for carrying out a particular scheme resting upon the Minister. (2) The Finance Department has been placed in

charge of a Member of the Executive Council. As the same Member has other spending Departments under his control, there is a strong temptation to provide funds for his own Departments at the expense of other Departments. The Finance Member, and through him the Official half of Government, thus came to have an effective control over the Transferred half—a result that was not expected in the beginning, and that accounts to a great extent for the failure of Dyarchy. But the Majority came to the conclusion that the position can be improved by minor changes in the Devolution Rules, and by the appointment of Joint Financial Secretary to help the Ministers with expert advice.

The Minority, on the other hand, has a fundamental objection to the whole scheme of financial arrangements under Dyarchy. The provincial revenues are allotted between the two halves by mutual agreement, the Governor acting as an arbitrator. "He is the supreme appellate authority in all matters of disagreement between his two sets of colleagues. In regard to differences between the two halves of Government arising over financial matters, his position must be extremely delicate and embarrassing. He is ultimately responsible to Parliament through the Government of India and the Secretary of State for the administration of the Reserved subjects, of which finance forms a part under the rules. Therefore the tribunal to which alone the Minister can appeal is far from being satisfactory. This is a prominent feature of the present Constitution, and its defective nature has been stressed by more than one Minister and ex-Minister" Page 168.

(vi) *Relation with Public Services*:—We come,

finally, to the very important subject of the position of the Services under the Reforms.

The great majority of Government Officials in India can be classified in three 'Services': the 'Superior' Civil Services, the 'Provincial' Civil Services, and the 'Subordinate' Services.

The Superior Civil Services themselves are divided into two classes, according as they administer subjects which are under the direct management of the Central Government in India, or subjects which are primarily controlled by the Provincial Governments. The former class consists of the Central Services dealing with the Indian States, Frontier affairs, State Railways, Posts and Telegraph, Customs, Audit and Accounts, and Scientific Departments like the Survey of India, Archeology and Geology. The other class which works primarily under the Provincial Governments comprises the All-India Services. They are recruited by the Secretary of State and liable to service in any part of India. They differ from the 'Provincial' Services which are recruited in a Province solely for provincial work, and it is to mark this distinction that the former are called "All-India" services. On 1st January 1924 there were roughly 4279 posts in the All-India Services such as the Indian Civil, Police, Forest, Educational, Agricultural, Veterinary, Forest-Engineering, Medical (civil), and Engineering.

We shall not deal here with the All-India Services with reference to two problems. (*a*) The problem of Indianization and (*b*) the removal of the economic grievances of the Services. We are concerned here with the constitutional position of the Services, so far as it has been affected by the introduction of Dyarchy in the Provinces. This question was being continually

considered by the Government of India and the Secretary of State, and finally became the subject for investigation by a Royal Commission of which Viscount Lee of Fareham was the President. Their Report was submitted to His Majesty in March 1924 and as most of their recommendations have been given effect to by the Secretary of State, we shall consider them here.

In a Minute to the Report, Prof. Coupland considers the constitutional aspect of the question. The question arises because of the introduction of Dyarchy. Though some All-India Services, notably the Indian Civil Service, are employed both in the reserved and the transferred field, for practical purposes the Services as a whole could roughly be differentiated as Services operating in the one or the other field. The position of those whose work was to lie in the reserved field was only slightly and indirectly affected. But the case of those who were to work in the transferred field was obviously different. As the fullest opportunities for Responsible Government were to be granted in that field, it was not logically consistent with this principle to maintain for the execution of the Ministers' policy a group of Civil Services the recruitment and ultimate control of which was vested not in Ministers and Provincial Legislatures but in the Secretary of State and Parliament. At the same time it was also recognized that to change the structure of the Civil Service simultaneously with a change in the structure of Government might fatally handicap the operation of the new system. The proposal of the Government of India, therefore, to retain the recruitment and control of the Services in the hands of the Secretary of State as a temporary expedient was

accepted by Parliament.

But like all temporary measures it satisfied neither the Ministers nor the Services themselves. The Ministers were dissatisfied because they could not create or abolish any permanent pôst in the Services in that field or reorganize them without the previous sanction of the Secretary of State. Though the Secretary of State had divested himself as completely as possible of his powers of superintendence, direction, and control over the Transferred field, these powers were retained in their fulness so far as the Public Services were concerned. It must be admitted that on the whole the Public Services co-operated with the Ministers in a fine spirit to carry out their programmes, but embarrassment, friction, heart-burning were not unknown, and nowhere had the Provincial Governors to intervene more frequently than in restoring harmonious relations between his Ministers and the Public Servants working under them.

In view of this constitutional difficulty the Lee Commission came to the conclusion that for the purposes of Local Governments, no further recruitment should be made for the Indian Educational, Agricultural, Veterinary and other Services in the Transferred field by the Secretary of State. The personnel required for these branches of administration should in future be recruited and appointed by Local Governments. As a consequence of this recommedation the control also over these 'Provincial' Services would go into the hands of the Local Governments. The Local Councils were to pass Acts for the general regulation of the Provincial Services, in the matter of selection and appointment, punishment and discipline, and pensions, promotion, and leave.

It is otherwise with respect to Services operating in the Reserved field of Provincial Governments, and under the Government of India. So long as the Secretary of State was responsible to Parliament for them, it was agreed, that he must have an effective control over the recruitment and control of the Services in those fields. "The Secretary of State can not, in any valid or effective sense, discharge his trust to Parliament for the good Government of the Reserved field unless he controls the making and maintenance of the executive machine on the efficiency of which good Government primarily depends."

The Commission, therefore, recommended that the Secretary of State should continue to have control over the Reserved Services as before.

We have now passed under review the constitutional position of the Public Services under Dyarchy, and their future treatment as proposed by the Lee Commission.

The Minority of the Reforms Enquiry Committee are not satisfied with these recommendations. In the first place they emphasize the changed role of the Service under the Reforms. "The All-India Services in the past have been mainly responsible for the shaping of policy in India and the combination of political and administrative functions in the Services is, to our mind, mainly responsible for the frequency and strength of the criticism to which they have been exposed in the past. The immunity which Public Services in England or the Dominions enjoy from hostile or unfriendly criticism cannot, we are afraid, be secured for the Services in this country in any large measure unless, among other things, the relations of the Services to the Legislatures are brought into closer

approximation with those prevailing in England or the Dominions. When it is recognised by the public that the Services are mere instruments for the execution of the policy of the Government and that they have no political functions to discharge, we think they will cease to be the targets of that criticism which is pointed out as an undesirable feature of the present political conditions in India; for when that stage is reached, it will be the responsible Ministers and not the Services who will have to bear the brunt of public criticism." Page 162.

As the Minority say in another place: "We venture to think that under the present system, the entire constitution, the method of recruitment, and control of the Services are incompatible with the situation created by the Reforms and the possibility of their further developments. The present organization of the Services came into existence when admittedly the centre of political gravity was outside India and when the Services took a leading part in the shaping of policy. Those conditions have appreciably changed and will change still further, and it is but natural that there should be dissatisfaction among the Services with their position and also among the Legislatures with the restraints and limitations imposed on their powers in relation to the Services. We think that the question of the Services is inseparably connected with the question of constitutional development in India and we are of the opinion that the relation of the Services to the Legislatures cannot be put on a satisfactory and enduring basis by a mere amendment of the Rules, or even by the delegation of certain powers under Section 96B."

Now whether the adjustment of the Services to the

Reformed regime is to be effected by delegation of power by the Secretary of State under Section 96B, or by an Act of British Parliament or Indian Legislature, one thing is clear: the Public Services should have no grounds to complain of unfair treatment. They have contributed to make India what she is. They will continue to be an important factor in the future progress of the country. There should neither be the feeling nor the complaint that they have no heart in their work as their efforts are not likely to have abiding results; and we must make it worth their while to give what is best in them to the country.

Summary and Conclusion—Having dealt with the Reports of the Majority and Minority of the Reforms Enquiry Committee, it would be perhaps advisable to survey the whole discussion by quoting the conclusion to which the Minority arrived.

In the first place they say that the system of Dyarchy was during the first three years everywhere worked in the Legislatures by men most of whom were professedly its friends and who generally speaking tried to work it in that spirit of reasonableness which is referred to by the Majority, and that generally a spirit of harmony and co-operation prevailed between the Legislature and the Executive, notwithstanding the fact that the atmosphere outside was for some time markedly unfavourable. The Indian Ministers and Members of the Executive Council, upon whom new opportunities of service were conferred, also appear to have been, within the sphere of their executive duties, equally eager to work the Constitution in the same spirit of reasonableness, and yet differing from the Majority, the Minority is forced to the conclusion that the present system has failed, and is incapable

of yielding better results in the future. The system has been severely tested during the course of this year and its practical break-down in two provinces, *viz.*, Bengal and the Central Provinces as a result of the opinions of the Majority of the Members of the Councils of those two Provinces who refuse to believe in the efficacy of Dyarchy and the tension prevailing in the other Legislatures for similar reasons, point to the conclusion that the Constitution requires being overhauled.

After enumerating the various reasons for the failure of Dyarchy (already given) in the Provinces, and referring to the danger arising from an irremovable Executive and a popular Legislature (with an elective majority) in the Central Government, the Minority say that any changes in the Rules, though they may lead to some improvements of the administrative machinery, will not produce any substantial results. The question is, not whether some alternative could be found for Dyarchy, but whether the Constitution should not be put on a permanent basis, with provisions for automatic progress so as to secure stability in the Government and willing co-operation of the people. The Minority express the hope that a serious attempt should be made at an early date to solve the question, possibly by the appointment of a Royal Commission.

His Excellency the Viceroy Lord Reading has gone to England to consult the Secretary of State—upon many questions of outstanding interest—and it is to be hoped that their conversations have led to a satisfactory solution.

CHAPTER XVIII

RESPONSIBILITY TO PARLIAMENT

(103) I—INTRODUCTORY

Having dealt with the operation of Dyarchy in the Provinces, let us pass on to the Reforms in the Central Government. The Government of India and the Secretary of State are still responsible to Parliament for their administration. The essential responsibility to Parliament and not to the Indian Electors is the key note of the changes—or of the absence of change—in the Government of India and the Secretary of State in Council. All modifications (or their absence) in the old order can be shown to be implicit in this fundamental principle of responsibility to Parliament.

The reason for this cautious policy was mentioned in the Third Formula in the M. C. Report and was thus enlarged upon by the Joint Committee: "The problem enunciated by the Announcement of 20th August 1917 was to design the first stage in a measured progress towards Responsible Government. Any such stage, if it is to be real advance, must, as the Committee conceive it, involve the creation of an electorate, and the bestowal of some share in the work and responsibilities of Government on those whom the electorate chooses to represent its interests. In the present circumstances of India, the electorate must at the outset be small and the administrative experience of its representatives must be limited. Before, therefore, the policy of His

Majesty's Government can be fulfilled, the electorate must grow and practical experience in the conduct of public affairs be enlarged. During this period the guardianship of the peace of India cannot be withdrawn from the care of the official agency which Parliament at present charges with the duties of the administration, and the Committee regard it as an essential feature of the policy of His Majesty's Government that, except in so far as he is released from responsibility by the changes made under this Bill, the Governor-General in Council should remain in undisturbed responsibility to Parliament and fully equipped with the necessary powers to fulfil that responsibility.

But from the beginning the people must be given an opportunity, and all political wisdom points to its being a generous opportunity, of learning the actual business of government and of showing, by their conduct of it, to some future Parliament that the time has come for further extension of power."

This dictum of the Joint Committee has led to two peculiarities in the reorganization of the Central Government after the Reforms: The absence of Dyarchy or Dualism in the Executive, and (2) a bicameral Legislature.

The generous opportunity spoken of in the last sentence of the paragraph has been given in two directions: appointment of more Indians to the Executive Council and the enlargement of the Central Legislature.

(104) II—THE EXECUTIVE COUNCIL

We considered in an earlier section the strength and working of the Executive Council before the Reforms. It consisted of six Ordinary Members and

one Extraordinary Member. On account of the growth of centralization a host of Officials worked under the Members of the Council. The phalanx of Secretaries, Joint Secretaries, Additional Joint Secretaries, Deputy Secretaries, Additional Deputy Secretaries, Under-Secretaries &c., of each Member had added enormously to the size of the Imperial Secretariat. Some reductions were made as a result of the process of Provincial Devolution, and further reductions were urged by the Retrenchment Committee of Lord Inchcape. That Committee suggested a regrouping of Departments more in keeping with the Reformed regime and at the same time less costly. One of the last official acts of Lord Chelmsford had been the preparation of a scheme of such redistribution of portfolios. But it was given effect to, with modifications, by Lord Reading. The Departments of Education, Health, Revenue and Agriculture were reconstitued into one Department of Industries (created in 1921 on the recommendation of the Indian Industrial Commission) and Public Works Department were reconstituted into the Department of Industries, and Labour. The Departments of Foreign and Political affairs, Army, Home, Law, Finance, continue as before. A Department has been created for Railways and Commerce. The division of functions into central and provincial, and the process of Devolution shifted the burden of actual administration from the Central to the Provincial Governments. The Executive Council had to be reconstituted so as to make it suitable for the administration of Central Subjects, and at the same time so as to introduce more Indians into it. The strength of the old Executive Council was restricted to six Ordinary Members of whom three were required to be men of

10 years' service under the Crown in India, one was required to be a barrister of five years' standing and only one was by convention an Indian. The Joint Committee accordingly recommended that the limitation on the number of Councillors should be removed, that only three of them should have service qualifications and that the legal qualifications required for the fourth Member may be gained in India as well as in the United Kingdom and that not less than three Members of the Council should be Indians. The Committee also pointed out that the Members of the Council drawn from the ranks of the public servants will, as time goes on, be more and more likely to be of Indian rather than of European extraction.

The concession as regards legal qualifications means that eminent Indian pleaders and Advocates can become Executive Councillors even though they were not Barristers. But though the number of Indians has been increased they are in no way comparable to the "Ministers" in the Provincial Executives. They are responsible to Parliament and not to the Indian Legislature.

Leave of Absence.—The other provisions regarding the working of the Governor-General in Council continue the same as before. In one respect, however, the provisions were found to be extremely out of date—namely, in the matter of leave of absence to the highest officials in India *e. g*, the Viceroy, the Commander-in-Chief, the Governors, Members of the Executive Council etc. These Officers could not go Home on leave, during their tenure of office, unless they resigned. This restriction was imposed at a time when the means of communication between India and England were slow and when the Officials

could not afford to be away from their service, on account of the unsettled state of the country. But things have now vastly improved; communications have become rapid and convenient; administration has been well established; above all there are positive advantages in the personal exchange of views between the Home Authorities and the Government in India. Nothing, indeed, could be a better proof of the closest dependence of Indian affairs upon the trend of politics in England, and of the responsibility of the Official Executive in India to the Secretary of State in England than the necessity that should have been felt of change in the rules of leave of absence. A Bill to that effect was recently passed by the Houses of Parliament. Lord Harris, an ex-Governor of Bombay, characterized the absence of such rules as an anachronism, and the late Lord Curzon—an ex-Viceroy—termed the absence of the means of personal conference and consultation with the Heads of the Home Government an absurdity, all the more glaring on account of the rapid changes that are going on in England. For instance, during the first three years of office of the present Viceroy there were as many changes of ministry in England—the Coalition giving place to the Conservative, and the latter making room for the Labour Government; the last, in their turn, were supplanted by the Conservatives under Mr. Baldwin. H. E. the Viceroy taking advantage of the rules paid a visit to England to have 'conversations' with the Secretary of State on the political situation in India. The new rules of leave of absence, therefore, are a striking evidence of the closer relations between the Home Authorities and the 'Official' part of Government in India.

(105) III.—THE INDIAN LEGISLATURE

The second method by which a 'generous' opportunity was given to Indians to learn the business of Government (and by no means as a step towards responsible government) was the enlargement of the Indian Legislature. Under the Reforms of Lord Morley the Governor-General's Council was so constituted in its executive and legislative character "as to ensure its constant and uninterrupted power to fulfil the constitutional obligations that it owes and must always owe to His Majesty's Government and to the Imperial Parliament." This meant an Official majority in the Indian Legislative Council. But the experience of the disadvantages of an official majority was so patent that the authors of the M. C. Report came to the definite conclusion that no Council, the composition of which was conditioned by the necessity of maintaining an official majority, would possibly be truly representative of the interests of the entire country. And yet the reponsibility of the Government of India to Parliament was to be kept unimpaired even though there was no Official Majority.

Thus the two postulates about the constitution of the Indian Legislature were: (1) There ought to be a substantial elective majority in the Legislature; (2) and at the same time the Legislature must not be in a position to withold such funds or to obstruct the passage of such laws as the Governor-General in Council should think essential for the discharge of his responsibility to Parliament.

These apparently irreconcilable conditions were met by the creation of a *bicameral* Legislature for India. In most Western countries the legislatures

have two Chambers—the Upper and the Lower—and there are great advantages in having two Houses. A better representation of all the interests in the country—particularly those of capital, land, nobility of birth etc.—is secured, and the Upper Chamber serves the additional useful purpose of being a 'brake' upon hasty or erratic legislation in the Lower or democratic House.

The M. C. Report, therefore, recommended that there should be two Chambers in the Indian Legislature—The Indian Legislative Assembly as the Lower Chamber and the Council of State as the Upper Chamber. But the M. C. Report did not propose to give to the Council of State the full status of an Upper Chamber. It was to be merely a Chamber that could be brought into effective play for the purpose of passing, on the strength of its Official Majority, what the Government of India thought to be essential legislation. It was to play the kind of part which the proposed "Grand Committee" was to play in the Provincial Council. Now we have already examined the considerations that led to the rejection of the Grand-Committee procedure in the Local Councils. The same considerations prompted the Joint Committee to oppose the idea of using the Council of State for securing, on the strength of its Official Majority, essential legislation.

If not a Grand Committee, what then was to be the status of the Council of State in relation to the Legislative Assembly? To answer this question we must first of all consider the nature and extent of control which the Secretary of State will continue to exercise over the Government of India. It is obvious that if the principle of responsibility to

Parliament was to be narrowly interpreted then the problem of the composition of the Indian Legislature loses half its difficulty and importance. That Legislature cannot be anything more than a mere recommending and registering body, and to the extent to which the Legislative Assembly was made stronger and more elective, to that extent the Council of State was required to be made a narrow and Offical Body as a counterpoise to it. But if the Government of India were to enjoy as large a measure of independence as was yet compatible with their responsibility to Parliament then the Indian Legislature may occupy an important and unique place under the Reformed regime and the Council of State need not be in that case a mere glorified Grand Committee. Accordingly the Official Majority has been dispensed with in the Council of State though, of course, care has been taken to see that the forces that make for conservatism are far stronger in the Council of State than they are in the Legislative Assembly. In most matters the powers of the Council of State are co-ordinate with those of the Assembly. The Council of State is to be a true Second Chamber, its useful function consisting in compelling the Assembly to bestow more reflection and care upon legislative measures. For this purpose it was to be so formed as to secure the services of the best men and as to be invested with all the dignity and position of "a body of elder statesmen." It has been also described as a "correcting" Chamber.

Composition of the Council of State.—The M. C. Report proposed that the Council should consist of 50 members with an Official Majority. But in order to be a true Second Chamber its strength has been increased and the Official Majority has been dispensed with. It

is to consist of 60 members as a maximum, of whom not more than twenty are to be Officials, and at least thirty must be elected members. (§ 63 A of the Act).

Composition of the Assembly.—The principles upon which the Lower Chamber of the Indian Legislature was to be formed were soon recognised. It was to be representative of the people throughout British India with a substantial elective majority. Its members were always to bring an all-India point-of-view to bear upon all problems that came before it for consideration. Provincial or parochial narrowness and communal jealousies were out off place in that Chamber which is to be the symbol of the unity of the Indian nation.

The Act (§ 63 B) laid down 140 as the minimum strength of the Assembly. This number may be increased by Rules made under the Act, provided at least 5/7 of the members are elected members, and at least ⅓ of the other (*i.e.*, nominated) members are Non-officials. As a matter of fact the actual strength of the Assembly is 143. The compositions of the two Chambers are given in the two following tables.

Statement showing the Constitution of the Council of State, (excluding the President)

—	Nominated Members.			Elected Members					
	Officials	Non-officials	Total	General	Muslim	Sikh	European Commerce	Total	Grand Total
Government of India ...	12	...	12	...	...	...	...	...	12
Madras	1	1	2	4	1	...	...	5	7
Bombay	1	1	2	3	2	...	1	6	8
Bengal	1	1	2	3	2	...	1	6	8
United Provinces	1	1	2	3	2	...	...	5	7
Punjab	1	2	3	1	1½	1	...	3½	6½
Bihar and Orissa	1	...	1	2½	1	...	...	3½	4½
Burma	...	...	...	1	...	...	1	2	2
Central Provinces ...	...	...	...	2	...	...	...	2	2
Assam	...	...	...	½	½	...	...	1	1
Delhi	1	...	1	...	...	...	...	...	1
Total ...	19	6	25	20	10	1	3	34	59

Statement showing the Constitution of the Legislative Assembly, (excluding the President)

—	Nominated Members.			Elected Members.								Remarks
	Officials	Non officials	Total	General	Muslim	Sikh	Land owners	Europeans	Indian Commerce	Total	Grand Total	
Govt. of India ...	12	...	12	...	...	...	...	...	...	...	12	* Including one technically nominated seat to be filled by nomination as the result of an election held in Berar.
Madras	2	2	4	10	3	...	1	1	1	16	20	
Bombay	2	4	6	7	4	...	1	2	2	16	22	
Bengal	2	3	5	6	6	...	1	3	1	17	22	
United Provinces ...	2	1	3	8	6	...	1	1	...	16	19	
Punjab	1	1	2	3	6	2	1	...	...	12	14	
Bihar and Orissa ...	1	1	2	8	3	...	1	...	...	12	14	
Central Provinces...	1	...	1	4*	1	...	1	...	...	6	7	
Assam	1	...	1	2	1	...	...	1	...	4	5	
Burma	1	...	1	3	...	...	...	1	...	4	5	
Berar (C. P.) ...	...	2	2	...	...	...	...	...	...	...	2	
Ajmere	...	1	1	...	...	...	...	...	...	...	1	
Total	25	15	40	51	30	2	7	9	4	103	143	

(106) IV—CONSITITUENCES AND FRANCHISE

The Legislative Assembly:—From an account of the composition of the two Chambers of the Indian Legislature we pass on to consider the method of appointment of the members. The method of indirect election that obtained in the old Indian Legislative Council was rejected. The work of the Central Legislature requires a wider outlook and higher standard of intelligence than those required in the Provincial Councils. The members of the Assembly must therefore be drawn from a wider electorate with a higher franchise. Thus in the place of the district (which is a convenient constituency for the Local Council), a Division (which is a group of districts) has been substituted for the Assembly and the franchise has been correspondingly raised. The franchise is shown in the Table given for the Bombay Council. The representation of the Bombay Presidency is as follows.

Name of Constituency	Classs of Constituency	Extent of Constituency	No. of Members
1. Bombay City (Non-Mahomedan) ...	Non-Mahomedan urban.	City of Bombay.	2
2. Sind (Non-Mahomedan)	Non-Mahomedan Rural.	Sind	1
3. Bombay—N. D. ...	"	N. D. ...	1
4. Bombay C. D. ...	"	C. D. ...	2
5, Bombay S. D. ...	"	S. D. ...	1
6. Bombay City Mahomedan. ...	Mahomedan urban.	City of Bombay.	1
7. Sind Mahomedans.	Mahomedan Rural.	Sind ...	1
8. Bombay Europeans.	European	Bombay Presidency.	2
9. Indian Merchants' Chamber and Bureau	Indian Commerce.	Non-territorial.	1
			12

List of constituencies entitled to representation in rotation

Constituencies	Seats
Sind (Mahomedan) Northern D. Mahomedan	1
C. D. Mahomedan S. D. Mahomedan	1
Sind Jagirdars & Jamindars Gujrat & Deccan Jagirdars	1
Bombay Mill Owners Ahmedabad Mill Owners	1
	4

N. B.—The first constituency in the bracket elects at the 1st, 3rd, and 5th election, and the second constituency at every even election

The Council of State:—It is always a difficult problem to devise a scheme of franchise that would give to the Upper Chamber members who represent interests sufficiently different from those represented in the Lower Chamber. This difficulty is not confined to India. In all Western countries that have got a bicameral legislature precautions are taken to sufficiently differentiate between the two Houses. In England, for instance, the Upper House (of Lords) represents the hereditary landed aristocracy in the country. In America, on the other hand, the Senate (the Upper House) represents the individual States and is thus constituted upon the Federal principle.

In the Council of State neither the principle of heredity nor of federation has been adopted. A possible alternative of the representation of the Rulers of Indian States was rejected, firstly on the ground that they recently formed a separate Chamber of their own, and secondly on the ground of keeping the affairs of British India separate from those of the Indian

States. In the end, diversity of composition was secured by keeping the franchise sufficiently high to secure the representation of the Land Holders—the hereditary aristocracy—of India, and the Capitalists—The mercantile aristocracy. The franchise is also based upon special personal qualifications *e.g.* past or present membership of a Legislative Body; past or present tenure of office on a Local Authority; *e.g.* President or Vice-President of Municipality or District Board; past or present University distinction; Honorary or Ordinary Fellow of the University; the tenure of office in a Co-operative Banking Society (*e.g.* Chairmanship); the holding of a title for literary merit *e.g.* Mahamahopadhyaya and Shams-ul-ulma. The table on pages 305 & 306 will have given an idea of the varying franchise, as based upon evidence of wealth, for the Provincial Council, the Legislative Assembly, and the Council of State.

The following table gives the representation of the Bombay Presidency in the Council of State.

Constituency	Description	Extent	No. of Members.
Bombay (Non-Mahomedan).	Non-Mahomedan	Presidency ...	3
Mahomedans ...	Mahomedan ...	Presidency exclu. Sind...	1
Sind Mahomedan...	Mahomedan ...	Sind ...	1
Chamber of Commerce.	European ...	Non-Territorial ...	1
			6

It will be seen that the principle of Communal representation has been extended to the Assembly and the Council of State also.

(107) V—POINTS OF DIFFERENCE BETWEEN THE COUNCIL OF STATE AND THE ASSEMBLY

The differential franchise for election to the two Chambers is not the only point of contrast between them.

(1) Thus in the matter of duration, the Council of State sits for five years, but the Assembly for three years. This secures a proper check over violent changes in the personnel of the Indian Legislature, makes for continuity of policy, and by giving longer tenure to the Members of the Council of State augments their independence.

(2) *Presidency.*—The President of the Council is appointed by the Governor-General from amongst the Members of the Council and he will generally be an Official. The first President of the Lower Chamber, for the first four years, was appointed by the Governor-General. The Joint Committee recommended that the first President should be qualified by experience in the House of Commons and by a knowledge of Parlimentary procedure, conventions, and precedents. The M. C. Reforms cannot be said to have fallen upon propitious times, but one of the few things in which they proved particularly fortunate was in the Legislative Assembly's having secured as its first President an eminent Parliamentarian like Sir Frederic Whyte. Subsequent Presidents of the Assembly will be elected by the Assembly and their pay will depend upon the vote of the Assembly.

(3) The title of Honourable is confined to the

Members of the Upper House, those of the Lower House being styled M. L. A's, and those of the Provincial Councils M. L. C's.

The powers of the two Chambers with regard to Legislation and Finance will be taken up in the following section.

(108) VI.—FUNCTIONS OF THE INDIAN LEGISLATURE

In considering these functions we shall follow the same plan of classification which was found suitable in the case of the Provincial Councils.

(1) Interrogatory (3) Financial

(2) Legislative (4) Deliberative. { Resolutions / Motion to adjourn.

The procedure, in either Chamber, with regard to the putting of questions, the moving of resolutions, or of motions to adjourn, is very nearly the same as in the Provincial Council and need not be gone over again. With regard to legislation and the Budget, however, important differences exist on account of the duality of the Indian Legislature, which must be carefully explained.

Legislation.—The proposal to use the Council of State as an organ of Government legislation having been totally rejected, its powers are co-ordinate with those of the Assembly. A Bill, therefore, is normally deemed not to have been passed by the Indian Legislature unless it has been agreed to by both the Chambers without amendments, or with such amendments as are acceptable to both. A Bill might be introduced in either Chamber either by Government or, after due notice (one month), by a private member.

The normal procedure of legislation is as follows: A Bill passed by the originating Chamber is

sent to the other Chamber and copies of the Bill are laid on the table at the next following meeting of that Chamber. After the receipt of the copies notice to take the Bill into consideration is given, and three days after, the Bill is taken into consideration. At this stage discussion is confined to explain the general provisions of the Bill; but the details of the Bill are not further discussed. Then the Bill is generally referred to a Select Committee. After a receipt of the Report of the Select Committee the Bill is again taken into consideration and passed without amendments (if possible,) and a message to that effect is sent to the originating Chambers. After being passed by both the Chambers the Bill is submitted to the Governor-General for his assent.

To expedite the passage of a particular Bill, it may be (instead of being referred to the Select Committee of the originating Chamber, and later on, again to the Select Committee of the other Chamber) referred to a Joint Committee of both the Chambers if they agree to resort to this procedure by a formal resolution. To such a Joint Committee each Chamber nominates an equal number of members; the Committee electing its own Chairman.

It is essential to understand the exact meaning of this procedure by reference to a Joint Committee. It is merely a device which enables the Chamber in which the Bill did not originate to take part by it's representatives in a discussion on a Bill at a very early stage of its progress. Such a procedure is resorted to even in the British Parliament when a peculiarly technical or important matter is under consideration *e. g.*, the Government of India Bill was thus referred to a Joint Committee of the two Houses.

After consideration in the Joint Committee the Bill is again dealt with separately in each Chamber as if it had been a Bill committed to and considered by its own Select Committee. The Bill, when passed by the originating Chamber, then goes to the other Chamber and is there passed, amended, or rejected in the usual way by that Chamber. The Joint Committee precedure is thus merely a device to save time. It does not commit either Chamber to what happened in the Joint Committee. Neither does it presuppose any difference of opinion between the two Chambers.

But if there be such a difference of opinion, the two Chambers may agree to have a Joint Conference "for the purpose of discussing a difference of opinion that has arisen between them." At a Joint Conference each Chamber is represented by an equal number of members, and the time and place of the Conference are fixed by the President of the Council of State.

Should the Joint Conference fail to remove the difference, the originating Chamber, disagreeing with the amendments made by the other Chamber, might again return the Bill to it intimating its disagreement with the amendments and proposing further amendments of its own. If these are not accepted by the other Chamber and it insists upon its original amendments, it returns the Bill to the originating Chamber with the intimation that it insists upon the amendments to which the originating Chamber has disagreed. The originating Chamber then may either report the fact of the disagreement to the Governor-General or allow the Bill to lapse.

At this stage it is, that is, when the Bill is passed by one Chamber but not passed by the other within six months of its passage in the originating Chamber,

that the Governor-General can intervene to compose the difference between the two Chambers. He can, at his discretion, refer the matter to a 'Joint Sitting' of both the Chambers. The President of the Council of State presides at this Sitting. The Members present at a Joint Sitting may deliberate and then vote together upon the Bill as last proposed by the originating Chamber, and upon amendments which have been proposed by one and not accepted by the other Chamber. If such amendments are affirmed by a majority of the Members present at a Joint Sitting, they are taken as carried, and the Bill also with the amendments, if similarly affirmed, is deemed to have been duly passed by both Chambers.

Budget Procedure.—To turn next to the Budget. The way in which budgets are prepared has been already described. In the case of the Government of India, the Accountant-General after examining the estimates as prepared by the Finance Department, issues what is called the 'First Edition' of the Budget. It is then considered by the Government as a whole. A 'Second Edition' of the budget is then prepared containing all changes made by the Government.—The Budget is then ready for submission to the Assembly.

The budget is presented to the Assembly and the Council of State on a day fixed by the Governor-General. It is presented simultaneously in both the Chambers, by the Financial Member in the Assembly, and by the Financial Secretary in the Council of State.

There is no discussion of the budget on the day on which it is presented. After about a week of the presentation of the budget, the Assembly enters upon the First Stage *i. e.*, of a general

discussion, usually lasting for two days. Only the main principle but not details of the budget can be discussed at this stage. The Governor-General who has the discretion of abolishing the distinction between votable and non-votable expenditure for the purposes of a general discussion usually communicates his permission in the form of a message to the Assembly.

After the general discussion commences the Second Stage of the budget *i. e.*, of voting of grants. A maximum of 15 days is allowable, though in practice not more than a week has been given. The discussion on any one demand is limited to two days. If the voting is not finished by a day previously fixed, the President is required to put forthwith at 5 p. m. on that day every question necessary to dispose of all the outstanding matters in connection with the demands for grants.

Non-votable items in the Budget.—Certain items, referred to in § 67A (3) of the Government of India Act are excluded from the vote of the Assembly. The alarmingly rapid growth of the military expenditure induced the Assembly to adopt a Resolution in January 1922 that the non-votable heads of expenditure also should be submitted to the *vote* of the Assembly. The wording of §67A is slightly ambiguous and legal opinion in England had to be consulted. The upshot of the consultation was that though the Governor-General may, at is discretion, allow a *discussion* on non-votable items, no authority but that of Parliament could transfer expenditure from the non-votable to the votable class. About half the expenditure is votable and the remaining half is non-votable.

The Finance Bill.—In addition to the general

discussion on the budget as a whole and the voting of grants, the Legislature has also to consider the 'ways and means' *i. e.*, the programme by which the Finance Member proposes to provide for the expenditure. It is the custom to embody all proposals of fresh taxation in a single Bill called the Finance Bill and leave to introduce it is obtained on the very day on which the budget is submitted to the Assembly. The Finance Bill has to follow the procedure of any other Bill. After leave to introduce it has been granted there is a general discussion, and then the Bill is taken into consideration clause by clause and finally the schedules of taxes are considered in detail. A general discussion on the Bill as a whole finishes this part of the Budget. The Finance Bill is then sent to the Council of State whose powers are co-ordinate with those of the Assembly regarding Legislation.

Powers of the Two Chambers with Regard to the Budget:-- As in all Parliamentary countries the Lower Chamber is, in all matters of finance, supreme. In the case of conflict between the two Chambers the Upper must yield to the Lower Chamber in the end. Thus the Council of State cannot propose an amendment to the Finance Bill which is unacceptable to the Assembly. For a difference between ths two Chambers can be removed by one of two ways only *viz.*, negotiation or by a Joint Sitting. But the latter falls out of question in the case of a Finance Bill, because the Governor-General can intervene and call a Joint Sitting for the purpose of solving the deadlock only after the lapse of six months after the failure of either Chamber to pass a Bill. A Finance Bill cannot stand for such a length of time (for otherwise taxes cannot be gathered) and, therefore, the Council of State must always assume

a compromising attitude. Similarly, though the Council of State has a right of general discussion of the budget, the voting of grants is the peculiar right of the popular Assembly alone.

Enforcing of accountability.—It is not enough that the Assembly merely pass the budget. It must see to it that the budget was strictly adhered to in practice. This is brought about by (*a*) the statutory position of the Auditor-General, (*b*) the institution of the Committee on Public Accounts, and (*c*) strengthening of the Finance Department.

(*a*)—Great importance is attached to an independent audit. In India the Auditor-General is appointed under § 96 (D) 1 of the Act. He is appointed by the Secretary of State in Council and holds office during His Majesty's pleasure. He is thus independent of the Executive in India.

(*b*) The Committee on Public Accounts of which the Finance Member is the Chairman consists of not more than 12 members, of whom eight are elected by the Non-Official members. It is to scrutinize the audit and appropriation accounts of the Governor-General in Council with a view to satisfy itself that the money voted by the Assembly was spent within the scope of the demand granted by the Assembly.

(*c*) The Finance Department also has been given important powers to assist the Committee on Public Accounts. It is to the Finance Department that the Auditor-General submits his Report on the audit and appropriation account for being placed before the Committee.

This Committee on Public Accounts should carefully be distinguished from the Standing Finance Committee. The difference between them was thus

explained by the Hon. Mr. W. M. Hailey: the operations of the Committee on Public Acccounts are of a *post mortem* nature, that is to say, it only deals with expenditure *after* it has been incurred. The Standing Finance Committee deals with proposals of expenditure *before* the expenditure is incurred.

(109) VII—SPECIAL POWERS OF THE GOVERNOR-GENERAL WITH REGARD TO LEGISLATION AND FINANCE.

Legislation:—Having considered the normal course of legislation and the budget in the Indian Legislature we must now turn to the special powers of the Governor-General with regard to either of them, when he finds himself in conflict with the Indian Legislature. And first with regard to Essential Legislation—Either Chamber may refuse leave to introduce a Bill or fail to pass a Bill in the recommended form. The Governor-General cannot always depend upon the 'Upper Chamber.' Nor would it be always possible to secure the desired legislation by an attempt at compromise between the two Chambers in the manner mentioned above. As the Joint Committee said " In all such cases the Governor-General in Council should be fully empowered to secure Legislation which is required for the discharge of his responsibilities; but they think it is unworthy that such responsibility should be concealed through the action of a Council of State specially devised in its composition to secure the necessary powers. They believe that in such a case it would add strength to the Government of India to act before the world on its own responsibility." § 67 B of the Act lays down the procedure of affirmative

legislation by certification and should be carefully read. "The Protection to Indian Princes Bill" furnished the first occasion to the Governor-General for the exercise of this power. This Bill was projected by Government to prevent the dissemination of books, newspapers &c., containing matter calculated to excite disaffection against the Princes or Chiefs of States in India. In the opinion of Government this measure became necessary after the repeal of the Press Laws, on account of the Treaties existing with the Indian States, and the Chamber of Princes also had urged the adoption of such a measure. But the Legislative Assembly took the unprecedented step of refusing leave for its introduction. The Governor-General then certified that the Bill was essential for the interests of British India, and recommended it to be passed in the form in which it was presented. It was passed by the Council of State; and despite efforts to secure a compromise with the Assembly, it became an Act without the assent of that Chamber.

During the discussion on that Bill the President of the Assembly thus expounded the meaning of § 67 B. Ordinarily a Bill may be introduced in either Chamber, though it must pass in both Chambers and receive the assent of the Governor-General before it becomes an Act.

Now a Bill may (*a*) be given leave to be introduced and passed either in the (originally) proposed or (subsequently) recommended form; or (*b*) be given leave to be introduced but not passed in either form; or (*c*) not be given leave to be introduced at all.

Such a Bill, in every case, has to be sent to the other Chamber. If the latter refuses leave to introduce, or fails to pass in the recommended form, a Bill passed

by the other Chamber (case *a*), the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof, and thereupon the Bill becomes an Act of the Indian Legislature on the Governor-General's signing it, notwithstanding that it has not been consented to by both Chambers.

If the Bill be one that has not been given leave to be introduced or has failed to pass in the recommended form (cases *b* & *c*), the Governor-General may certify that the passage of the Bill is essential for the safety, tranquility or interests of British India or any part thereof, and thereupon the Bill shall be laid before the other Chamber and if it is consented to by that Chamber in the form recommended by the Governor-General, it shall become an Act on the signification of the Governor-General's assent or if not so consented to, it shall be an Act on the Governor-General's signing it.

It will be seen that the Government of India Act desires the Governor-General to secure the assent of one Chamber if not of both, though it gives him the power to pass a Bill, in the absence of the assent of either Chamber, by signing it.

Every such Act made by the Governor-General must be laid before each House of Parliament for eight days and receive the assent of His Majesty in Council. The Parliamentary confirmation will be a check upon an extensive or improper use of this power of autocratic legislation. In a state of emergency (*e. g.* in the case of a Finance Bill), however, an Act may come into operation forthwith, subject to disallowance by His Majesty in Council.

Proceeding to consider the case of non-essential

legislation—Here the first safe-guard lies in the requirement of 'previous sanction' which is necessary under Section 67 (2). For a Bill which has been introduced in the Legislature but which the the Governor-General thinks "affects the safety or tranquillity of British India or any part thereof" a certification to that effect will secure its immediate withdrawal. The Governor-General can also 'return' such a Bill to the Legislature for reconsideration. It will be seen that the provisions are similar to those described in connection with the Provincial Governors.

The power of stopping legislation by means of certification should be distinguished from that of affirmative legislation by certification.

Finance:—To turn to the case of essential Funds: Here the Governor-General in Council has been given the power of restoring grants that have been reduced or rejected by the Assembly. The power is quite similar to that of the Provincial Governor with regard to the same subject of essential funds and has been already considered in that connection.

The salt-tax controversy of 1923-24 throws light on the relative powers of the two Chambers and that of the Governor-General. Proposal to raise the salt-tax from Re. 1-4-0 to Rs. 2-8-0 per maund was made in the Finance Bill. This doubling of the tax was negatived by the Assembly. The Finance Bill was sent to the Council of State and there passed, thus reversing the vote of the Assembly. The Bill was again introduced in the Assembly with the recommendation of the Governor-General that it be passed in the form in which it had emerged from the Council of State. But this motion was rejected. The Governor-General certified the Bill under section

67 (B) of the Act and thus the salt tax was doubled.

Criticism:—Unfortunately the occasions on which these powers of overriding the Assembly were invoked by the Governor-General were not few. "The protection to Indian Princes Bill" was enacted by this power; the Salt-tax was doubled by the same procedure.

The Assembly's power over the purse is even more limited than over legislation. Two restrictions have been imposed on that power. (*a*) On the analogy suggested by the Consolidated Fund Charges in the Imperial Parliament certain charges of a special or recurring nature set out in Section 67 A of the Act, *e.g.*, the cost of defence, debt charges etc. have been exempted from the vote. As already noted, the Assembly can only—and this at the discretion of the Governor-General—discuss this non-votable part of the budget. (*b*) And even with regard to the votable part, the Governor-General has been given the power of restoring any grant which was refused by the Assembly if he certifies that the grant is necessary for the fulfilment of his responsibilities for the good government of the country.

The Government of Lord Chelmsford were opposed to the principle of submitting the budget to the vote of the Assembly, as they could easily anticipate the difficulties that would arise if the demands refused by the Assembly were restord by the Governor-General. "We are profoundly unwilling to accept the untried restorative power. We believe that such a power could not possibly be used with the frequency that the situation will demand. If we admit that the Legislature may vote the budget, we recognise that the Legislature has normally financial control, and therefore, may shape the policy of the Executive Government except on those

extreme occasions when the latter calls up its last resources and overrules the Legislature. To grant such powers to an Assembly whose capacity in matters of Imperial importance is still quite unknown, would, in our opinion, be quite unsafe......A state of sustained hostility must ensue between the Executive and the Legislature unless—and this is in practice the more probable consequence—the normal control of finance, and therefore, of policy passes entirely to the Legislature. What we accept both as regards Reserved and Central Subjects is the influence of the Legislature, and what we definitely reject is this control. We undertake to weigh carefully the suggestions of the Legislature in regard to finance, and we hold that, in that Government which is the keystone, this is all that can be safely allowed in the initial decennial period."

It cannot be said that this "Restorative power" has been used sparingly. The Joint Committee had indeed expressly laid it down that the power was real and was meant to be exercised 'if and when necessary.' The Provincial Governors as well as the Governor-General have frequently used the power. The extreme financial stringency—in Provincial and Central finance—that synchronised with the first Reformed Legislatures, and the frequency with which rejected demands were restored went a long way to bring the Reforms into discredit. Public opinion was well pronounced on matters like the doubling of the Salt-tax, or the appointment of the "Lee Commission on the Public Services." But in the one case the tax was 'certified' and then imposed, and in the other case the demand was restored. This last was definitely a case where the Assembly tried to shape the policy

of the Executive by means of its financial powers but it was not allowed to do so.

The manner in which the Government of India allowed themselves to be influenced by the Legislature was (1) firstly by accepfing all-round cuts in the budget *e.g.* the 5 per cent. reduction in all departments in the Central Government; (2) By appointing the 'Retrenchment Committee' under Lord Inchcape dealing with Central Finance. Most of the recommendations of the Committee leading to important economies in the Military and Railway expenditure are being carried out. (3) By not restoring a demand, where no special principle was involved. *e.g.* the Assembly's refusal to grant money to Lord Lytton's Committee on Indian students to visit India. The Secretary of State did not press for the visit of that Committee. (4) By accepting Resolutions suggesting important economies or improvements in Finance *e.g.*, Separation of Railway Finance from the rest of the Indian budget, the Fiscal Policy, the Frontier Policy, etc.

In fact the root cause of the failure of the Reforms to satisfy the people will be found in their financial provisions. A proper redistribution of the burden of taxation between Imperial, Provincial, and Local authorities—is the *sine qua non* of the success of Responsible Government in India, and no Committee can do more useful work in that direction than the one recently appointed to investigate this question. It is by far the most important Committee incidental to the working of the Reforms. The frequent deadlocks in the Central Government—due to there being an irremovable Executive responsible to Parliament and a Legislative Assembly with an elective Majority,—

have also proved that some element of responsibility ought to be introduced in that sphere of Government also. This is the fundamental question on which the Majority and Minority of the Reforms Enquiry Committee differed, as explained in an earlier Section.

(109-A) TENDENCIES IN THE INDIAN LEGISLATURE

But though the Authors of the Reforms were not prepared to introduce responsibility in the Central Government, and effected, in respect of that Government, a constitutional arrangement that was bound to lead to difficulties and deadlocks, an unexpected result has been brought about on which Lord Meston makes this profound observation: "The purpose of the arrangement was clearly to habituate the Executive, even in discharging their own responsibilities, to rely more and more upon the support of their Legislature, and less and less upon the support of the British Parliament accorded through the Secretary of State. Under the old dispensation, if a Viceroy proposed to introduce a new policy he had to persuade the Secretary of State of the necessity for it and of its wisdom; he had also to get the Secretary of State's consent to the measures for financing it. Under the new dispensation the Secretary of State will be difficult to persuade, unless the scheme has first obtained the blessing of the Indian Legislature. The Viceroy of the future will consequently tend, in increasing measure, to consult Indian opinion first, and to count on its support rather than the academic approval of Whitehall or Westminster. In precisely similar fashion, the Provincial Governors will come to lean on their Local Legislatures rather than on the Secretariats at Dehli. Thus, under a puzzling consti-

tutional form, there is being effected a remarkable transference of power, or at least of influence so significant as to be barely distinguishable from power. Whether Parliament appreciated the extent to which it is divesting itself of authority over India, may safely be doubted. But it is in this undemonstrative fashion that the future policy of the British Commonwealth is being established."*

(110) VIII—CLOSER RELATIONS BETWEEN THE EXECUTIVE AND THE LEGISLATURE

Though Responsibility has not been introduced in the Central Government and thus though there are no 'Ministers' in the Government of India provision was made to bring about closer relation between the Executive and the Legislature. The Executive Councillors are ex-officio members of one or the other Chamber of the Indian Legislature. The Act also allows the Governor-General to appoint from among the Members of the Assembly, Council Secretaries to hold office during his pleasure and to discharge such duties in assisting the Members of his Executive Council as he may assign to them. A few such appointments have been made in the Provinces, but so far no appointment has been made in the Central Government. In fact, a Resolution recommending such appointments was defeated in the Legislative Assembly. It would seem that the difficulties in the way of making such appointments, both from the point of view of Government and the Non-official members in the Indian Legislature are great. That there are advantages in such appointments is clear; the Secretary gets

* Ilbert and Meston: 151–52.

administrative training; he relieves to some extent the permanent Officials in the Secretariat; he serves to bring into closer contact the Government with the Assembly. But such Secretaries will be occupying an anomalous position in the Central Executive, particularly as there are no popular Ministers in that Executive. Such a Secretary will have to serve two masters: his own constituency and the political party, if any, to which he belongs on the one hand, and the Government into whose working he has been allowed to pry on the other. There would be also difficulties about his pay. For all these reasons the Assembly did not accept the Resolution.

Finally there are the appointments of various Standing Committees. The Government of Lord Chelmsford were originally opposed to such Committees on the ground that they would impede business, induce delay, weaken the sense of responsibility of the Executive, open the door to intrigue and though avowedly advisory in character, will gradually come to engross the powers of the Executive.

But in January 1922 the Assembly adopted a Resolution in favour of such Committees and they have since been appointed. They consist of 5 members, three being selected from panels of 9 members from the Assembly and two from the Council of State. They have been appointed to advise on subjects in the Home Department, the Commerce Department, the Department of Education Health and Land, and the Department of Industries and Labour. Reference has already been made to the Standing Finance Committee attached to the Finance Department.

(111) IX—HOME ADMINISTRATION

Principle of relaxation of Parliamentary Control. We have now seen how the essential responsibility of the Government of India to Parliament has been secured. But this will place the Secretary of State for India with respect to Indian Administration in a position quite different from that of the pre-Reforms days. Reference has been made to the rigid control he exercised over that administration and the autocratic position he had come to occupy in his own Council and with respect to Parliament, and finally to the indifference of Parliament to Indian affairs.

Now the Fourth Formula of the M. C. Report laid down "in proportion as the foregoing changes take effect, the control of Parliament and the Secretary of State over the Government of India and Provincial Governments must be relaxed."

Sir James Brunyate distinguished between three methods by which power could be transferred from a higher to a lower authority namely, Devolution, Delegation, and Convention.

Devolution:—Means a practically complete transference of power and responsibility together such as is effected in the Provincial Transferred subjects. In this case what Parliament surrenders is taken by the Provincial Councils. Here the Secretary of State cannot be held continuously answerable to Parliament in any effective sense. But, as already explained as between the Secretary of State and the Government of India there can be no Devolution under the existing scope of Reforms.

Delegation.—Consists in the transfer of power in minor matters to a lower authority; as to an agent by

the principal. It does not imply, in its nature, any corresponding shifting of responsibility lying on the transferer who continues to exercise ultimate control.

Convention.—In any case, however, the principle of delegation is of limited application. It must be supplemented by the third method namely Convention *i. e.* a recognised and well understood practice.

Present Position.—It is evident that the occasion and extent of the intervention of the Secretary of State must depend upon whether a subject is Central, or Reserved, or Transferred. The Crewe Committee recommended that "the principle of previous consultation should be substituted in all cases when the previous sanction of the Secretary of State in Council was hitherto required." This proposal related only to legislative and financial projects. There are now no formal restrictions upon the powers of the Government of India in administrative questions. A reference to the Secretary of State continues to be made on questions which are understood to be of special importance. In financial matters the Secretary of State has made definite delegation of power by the Central and Provincial Audit Resolution. Thus for instance, with regard to expenditure on Provincial Reserved subjects, where the cost of revision of permanent establishment exceeds Rs. 5 lacs a year, but does not exceed Rs. 15 lacs a year, the sanction of the Secretary of State in Council is not required if a Resolution recommending the changes is passed by the Legislative Council. This is a definite delegation of the powers of the Secretary of State in Council in conformity with the principles of the Crewe Committee.*

* India's Parliament Vol. VIII p. 171.

As regards Legislation the position is this: The Secretary of State requires reference for his approval prior to the introduction by the Government of India in the Indian Legislature of Bills other than routine Bills, and Bills of minor importance which fall within certain specified classes. With regard to *provincial* legislation, no reference to the Secretary of State is required prior to the introduction of Bills in Provincial Legislative Councils, but the Secretary of State has directed his concurrence to be obtained before sanction is refused by the Governor-General to the whole or main provisions of a Bill which it is proposed to introduce in such Councils, or before executive orders have been issued by the Government of India forbidding the introduction by a Local Government of such a Bill.

It is with regard to Transferred subjects that definite Devolution of authority has been made by the Secretary of State. Here only in specified cases can the Governor-General in Council and the Secretary of State intervene in the administration of Transferred Subjects. *e. g.*, (1) to safeguard the administration of central subjects; (2) to decide questions between two provinces, failing an agreement between them; (3) to safeguard Imperial interests; (4) to determine the position of the Government of India in respect of questions arising between India and other parts of the British Empire; (5) to safeguard due exercise and performance of any powers and duties possessed by or imposed upon the Secretary of State in Council under or in connection with the action relating to the office of High Commissioner, the control of Provincial borrowing, the regulating of the Services, the duties of the Audit Department and certain other rules.

In regard to the Central and Reserved Subjects, for which the Government of India and the Secretary of State are still responsible to Parliament, the Joint Committee, after the most careful consideration, came to the conclusion that "no Statutory specification of purpose could be made; but in practice the conventions which now govern these relations may wisely be modified to meet fresh circumstances caused by the creation of a Legislative Assembly with a large elected majority. In the exercise of his responsibility to Parliament which he cannot delegate to any one else, the Secretary of State may reasonably consider that only in exceptional circumstances should he be called upon to intervene in matters of purely Indian interest where the Government and Legislature of India are in agreement." —and so also in the case of unanimity between a Provincial Government and Legislature. An important instance of such a convention is with regard to the Fiscal Policy of India, to which reference will be made in the next Part of this Book.

Separation of the Agency and Political Functions of the Secretary of State.—Let us next consider the effect of these new relations upon the Secretary of State in Council. As the successor of the Court of Directors and the Board of Control, he had come to discharge two distinct kinds of functions—Some were purely of an agency-nature *e.g.* raising of loans, incurring captial expenditure, purchase of stores for the Government of India, payment of pensions etc.; his other functions were political and comprised correspondence with India and the exercise of superintendence, direction and control of the Indian administration.

High Commissioner for India.—Now a clear separation of the agency functions from those of a political

complexion is one of the first results of the Reforms. The purely agency functions have been transferred to a High Commissioner for India. Sir William Meyer was the first High Commissioner. It is no figure of speech to say that the appointment of the High Commissioner for India in London is the outward visible sign in London of the new status of India, approximating her to that of the Dominions. The other Dominions have similar accredited High Commissioners in London and they are a symbol of their independent status. The High Commissioner is a servant of the Government of India and has little to do with the Secretary of State. His pay is paid out of Indian revenues. A number of sundry functions, *e. g.*, those relating to the Stores Department, the Indian Students' Department, the training of probationers to the Civil Services, passages, purchase of quinine etc. have been made over to him.

The India Council.—The Secretary of State in Council will henceforward be confined to his proper political function of supervising the Government of India. Now it cannot be said that in the discharge of such functions the India Council (*i. e.* of the Secretary of State) had played, even before the Reforms, any glorious part. They merely entailed reduplication of work, delay, and a close restriction of the powers of the Government of India. There was some excuse for re-examining and control of the measures of the Government of India so long as the latter was not amenable to popular criticism in India. But the excuse disappeared and the control became anomalous after the growth of public opinion in India.

Again seven years was too long a period to keep the Members of the Counctl in living touch with the rapidly changing conditions in India. The

innovation of Lord Morley to remedy this defect by the infusion of Indian Members into the Council was a move in the right direction.

Another defect of the system was the very anomalous position of the Secretaries of the various Departments which transacted business in the India Office. These Secretaries were appointed by the Secretary of State and were often the holders of very high official positions in India prior to their appointment. Their knowledge of Indian conditions was both more recent and authentic than that of the Councillors to whom, however, they were subordinate. The Departmental Secretaries could not attend the meetings of the Councils and they were not the constitutional advisers of the Secretary of State. The object of Lord Crewe's proposed reform of the India Council was to convert the Secretaries into the Secretary of State's constitutional advisers, but the Bill was rejected by the House of Lords.

Proposals for the reform of the Council—like the one of Lord Crewe were always put forward. But it would seem that with the growth of Legislative Councils and popular opinion in India, the utility of the Council of the Secretary of State disappears. Any strengthening of the Council cuts at the principle of Parliamentary control at both ends : it weakens the responsibility of the Secretary of State to Parliament and of the Government of India to the Secretary of State. It opposed to the salutary axiom that India must be governed as far as possible by the Government of India, and above all to the development of self-government in India. Any attempt to seek, therefore, in a reformed and strengthened Council of India an effective check over the Secretary of State is opposed

to the whole trend of progress in India.

Lord Crewe's Committee that was specially appointed to inquire into the Home Administration of India came to the conclusion that there was no constitutional function of the Secretary of State in Council which could not equally well be discharged by the Secretary of State, and that Committee, therefore, recommended the abolition of the Council. This radical proposal was quite in keeping with the Indian point of view—for even the late Mr. Gokhale had said in his 'political testament' that the Council should be abolished and the position of the Secretary of State approximated to that of the Secretary of State for the Colonies."*

Thus though the case for the abolition of the Council was sufficiently strong, the idea of doing away with a body of more than 60 years' standing was too radical to be accepted by British politicians. It was opposed by authorities on the Indian Constitution like late Sir Courteny Ilbert and actual administrators like Mr. Austen Chamberlain. The Joint Committee also was not in favour of abolition. " They think that at any rate for some time to come, it will be absolutely necessary that the Secretary of State should be advised by persons of Indian experience, and they are convinced that if no such Council existed the Secretary of State would have to form an informal one if not a formal one. Therefore, they think it much better to continue a body which has all the advantages behind it of tradition and authority."

But though the Council was thus suffered to continue as a *pis aller*, both its constitution and procedure were radically altered. In reframing the constitution

* Keith : Vol. II, 116.

tho chief object was to bring it into a more living contact with the rapidly changing conditions in India. This was done (1) by introducing more Indians in it, and (2) by shortening the period of service upon it. Similarly power has been given to the Secretary of State to frame rules for the transaction of business in the Council. Thus the necessary amount of elasticity has been introduced into the relation of the Secretary of State with the Parliament on the one hand, and with the Government of India on the other.

Position of the Secretary of State.—For it should not be forgotten that if the Reforms have from one point of view relaxed Parliamentary control over the Government of India, they have from another point of view strengthened that control. "Imperialism" and the Great War increased the interest of Parliament in the affairs of India, and the Government of India Act has thrown upon it resposibilities for the proper discharge of which it must maintain that interest without abatement.

With regard to the Secretary of State his immediate and personal dependence upon Parliament was emphasized in four or five ways. (1) His position as the political head of the Government of India was brought into relief by the appointment of a separate High Commissioner for agency functions (2) The old myth of the India Council as a statutory check over the Secretary of State with its power of 'financial veto' was openly given up, and the Council was reduced to the status of what it had actually become, namely, an advisory body. (3) His salary was transferred to the Home Accounts. Such a transfer was always demanded by public opinion in India, on the analogy of the salary of the Secretary of State for

Colonies, on the ground of fairness to the Indian taxpayer. that England, in justice, ought to bear, on Imperial considerations, what after all was a small sum compared with the enormous advantages she derived in diverse ways from India remaining a part of the British Empire, and finally on the ground that it would make the Secretary of State more amenable to Parliamentary criticism. Accordingly Parliament contributes the sum of Rs. 1,36,500 towards the India Office establishment—the sum including the Salary of the Secretary and the Parliament Under-Secretary of State for India, and the administrative and political expenses of the India Office. As Ilbert observes, this important change brings the administration of India Office under the direct and recurrent criticism of Parliament, like that of other Departments of the British Government.*

(4) The power of disallowing Acts of the Indian Legislatures—Central, as well as Provincial—has been vested in His Majesty in Council by the Act of 1919. And he is to be advised in these matters by the Secretary of State.

Further the Secretary of State has been given extensive powers of making Rules under the Act, and in the exercise of this function he is required either to get Parliamentary sanction before the Rules are made, or Parliamentary ratification after they have been made.

(5) Before the Reforms India was outside the pale of party politics in Parliament. But an influential section of the Liberal and progressive elements in the House of Commons had always formed an informal Association to represent the claims of India. During

* Ilbert "Historical Survey" 137.

the War the advantages of negotiating directly with one or the other Party—and particularly the Labour Party—were emphasized and Parliament itself felt the necessity of taking a continuous interest in Indian problems. The inestimable work which the Joint Committee had done in helping the passage of the Government of India Bill through Parliament obviously suggested the continuance of that method. A Standing Joint Committee of both the Houses of Parliament is constituted; it does not possess any Statutory functions. It has a purely advisory and consultative status. One of its important functions is the examination of Rules to be made under the Act of 1919.

The change in the position of the Secretary of State and the new opportunities and means of showing interest in Indian affairs that the Reforms have opened out to Parliament should enable that Imperial Legislature to perform satisfactorily the task of revising the Indian constitution from time to time. The visit of H. E. Lord Reading to England to 'converse' with the Secretary of State and the important pronouncement recently made (July 7 1925) in the House of Lords by the latter official on the subject of Indian Reforms show the spirit in which Parliament is going to discharge that responsibility. This Part of the book dealing with the introduction of Responsible Government in India cannot be more appropriately closed than with a summary of that pronouncement.

(111A) PRONOUNCEMENT OF LORD BIRKENHEAD

It was in reply to a question raised by Lord Olivier in the House of Lords: The question was

whether the defects of the Provincial Councils for their actual purpose of serving as a training ground for Parliamentary responsibility could be removed fully without further consideration of the Constitution. Lord Olivier held that it was expedient, in the interests of all concerned, that not only should the recommendations of the Majority or Minority of the Muddiman Committee by way of altering the Rules be adopted, but that, in order to ease the dissatisfaction among all parties in India with the present Constitution, the Government should immediately undertake a further examination of how the known difficulties with regard to the Constitution should be solved.

Now Lord Birkenhead made it clear that no final decision could be reached in this matter without formally invoking the advice and views of the Government of India, and ascertaining the opinions of the Legislative Assembly. "The Government is far too conscious of the implications of the Montagu-Chelmsford Constitution to find it possible even to think of conclusions until certain indispensable antecedent steps have been taken. But before any decisions of any kind are taken it is obvious that the consideration and advice of the Government of India must be formally invoked, and it is at least equally obvious that the opinions of the Legislative Assembly must be elicted."

After assuring the House that the financial situation in India was satisfactory, and dwelling at some length upon the immense possibilities of Indian agriculture he turned to the great experiment of Responsible Government begun by the late Mr. Montagu. It was a remarkable and bold experiment. It was made in the atmosphere of post-war idealism. Whether that

experiment failed or succeeded, all praise was due to Mr. Montagu for his idealism and courage. "He was a true friend of India and his name will not be forgotten in that country."

After claiming that England has never lagged behind in discharging the heavy responsibility of governing the great Indian Empire ever since its acquisition, Lord Birkenhead said : "we decided with the full and deliberate acquiescence of both the Houses of Parliament to make that great experiment which is known as the Montagu-Chelmsford Constitution. It is extremely important that we and others should realise with precision what was done by the Government of India Act of 1919. Its permanent and static effect is unquestionably contained in the preamble. The Act itself was admittedly fluid and experimental. The language of the preamble ought to be borne in mind by every instructed critic of our Indian policy and of the actual Indian situation with which I have to deal.

"The preamble expressed the deliberate and deeply considered decision of Parliament. Conformably with the principles laid down in the preamble, one constitution or another might at one time or another be attempted. Experience educating us or informing our critics in India might induce us to make an amendment here or an advance or a variation there. But the whole message as we understand it or our situation in India with all that it involves in storied past, in the critical present, and in the incalculable future is to be read in that preamble. We shall not be diverted from its high obligations by tactics of restless impatience. The door to acceleration is not open to menace, still less will it be stormed by violence."

The Secretary of State was sorry that the Consti-

tution of 1919, though admittedly defective, should not have been exploited to its utmost capacity. This was all the more deplorable in view of certain other sources of weakness in the Indian situation *i. e.* the lack of a true nationalist spirit among the people; their communal differences, the danger on the N. W. Frontier &c. In fact from these and other things Lord Birkenhead drew "the almost generally accepted conclusion that an immediate repudiation of our responsibilities in India would be at least as fatal to the intersts of India itself as in any year since 1765."

Turning to examine the working of Dyarchy in the Provinces, Birkenhead said that he was always doubtful about the wisdom of the Reforms of 1919, particularly the dyarchical principle underlying them. "It seemed to me to savour of the kind of a pedantic and hidebound constitution to which the Anglo-Saxon communities have not generally responded and which, in my anticipation, was unlikely to make a successful appeal to the community whose political ideas were, thanks in the main to Macaulay, so largely derived from Anglo-Saxon models." Addressing himself to the plain question whether the Montagu-Chelmsford Reform has succeeded or has failed, he could not say that it has failed, for it was never given a fair chance. "Mr. Montagu undoubtedly looked, and surely he was entitled to do so, to those who cherished the most sanguine expectations of Indian political capacity to co-operate in his great task. These expectations were not realised. Critics of Indian capacity for Self-Government would indeed have been helpless had wiser counsels prevailed in India. Suppose, for instance, that judicious and sagacious

co-operation had been exhibited by the leaders of Indian thought, can anyone imagine that reactionary critics of those reforms in this country could have retarded the chariot of progress? Had that which was given been used with cheerful goodwill to justify the gift, the task of acceleration would have been easy."

Lord Birkenhead then proceeded to take a general survey of the working of Dyarchy in different provinces and on the whole he was in agreement with the reports of the respective Provincial Governments.

Constitution Successful in Madras.—In Madras the transitional constitution has worked with a great measure of success. Ministers have used their influence to steady public opinion and feeling and have displayed a general moderation and no small measure of statesmanship. The Governor-in-Council has stated that if an earnest endeavour to work on constitutional lines is a qualification for political advance the Madras Presidency has shown itself fitter for an advance than any other province.

In Bombay.—In the present Council of Bombay the Swarajist party is strongest in numbers, but does not command a majority and it is pledged to a policy of refusal of political responsibility. The Ministers were, therefore, selected from the smaller groups under circumstances which must obviously be a source of weakness. Lacking sufficient support from their followers, they are driven to lean upon the official vote and so the distinction between the two halves of the Government has been obscured. The Bombay Government has recently pointed out that the main object at present must be to strengthen the position

of the Ministers and to encourage the organisation of parties.

Dyarchy in Bengal Had to Go.—In the first Council elected in Bengal progress was made and some solid achievements were recorded. The Government claims with justice that the Ministers were able to influence a sufficient number of members to make it possible with the aid of the officials to carry through a considerable amount of useful legislation. The second Council contained a large and influential body belonging to the Non-Cooperation party which is pledged to prove that the present Constitution is unworkable. This body was joined by the Independents and the combined party commands more than 60 votes in the House of a total strength of 140. The possibility is not to be excluded that at the next general election there may be a return of an absolute Swarajist majority taking office with the avowed intention of wrecking the Government from within. The Government points out that the Constitution requires to be specially considered from the point of view of giving the Executive power to deal with obstruction. Since this report was framed by the Local Government the Bengal Legislative Council has indicated in no uncertain manner that it prefers to dispense with Ministers and the dyarchic Constitution, and accordingly the Government of India and I had no option but to suspend the Transfer of Subjects in that Province.

Alleged Failure of Reforms in the U. P.—The Government of the United Provinces says that it is incessantly alleged by their enemies and critics that the Reforms have failed. If it is asked

whether the Constitution has definitely broken down they absolutely deny the statement since there was the collapse in its original form of the Non-Cooperation movement. It is claimed that the internal conditions of the Province have steadily improved, and except for the tension between Moslems and Hindus, there is nothing to cause the Government serious anxiety. Forty-seven millions of people are living peaceably under an ordered and progressive administration and are probably more prosperous than their predecessors have ever been. The Reformed Constitution had failed to satisfy both the Swarajists and Liberals and this constitutes the principal cause for anxiety.

The Governor-in-Council says that Dyarchy is obviously a cumbrous, complex, and confused system having no logical basis, rooted in compromise, and defensible only as a transitional expedient.

Hindu-Muslim Tension in the Punjab.—In the Punjab the working out of the scheme has driven the two main communities, Hindu and Mahomedan, into open dissension and has developed an acute antagonism between the urban and rural interests. There is not as yet, in the view of the Government, evidence of the existence of a thinking and selective electorate in the districts capable of exercising its vote on considerations of policy. Here too the dyarchical scheme has produced considerable anomalies and it cannot be claimed that the Punjab afforded a suitable field for the introduction of a divided responsibility.

So far Ministers willing to co-operate with the Executive have been found who have been supported by a party which has not attempted to force them

into an extreme position.

No Difficulties in Burma.—In Burma the Reforms were introduced 2 years later than in the other provinces of India. Less than 7 per cent of the electorate voted at the only general election held which was boycotted by Extremists. During the 18 months in which the Reforms have been in operation hardly any difficulties have been experienced and hardly any defect is discovered in the working of the Constitution.

Bihar and Orissa.—The Government of Bihar and Orissa said that one may search in vain for the signs that three years of Reforms have educated the electorate to the meaning of an election and the business of a legislature. In many districts reports of the presiding officer declared that a large proportion of voters did not know the name of the candidate for whom they voted but had only been told the colour of his box. The Government included amongst the causes which have contributed to the non-success of the Reforms the failure to create a ministerial party prepared to support Ministers in carrying out a definite programme.

The Council still remains divided into two parties, Official and Non-official. Ministers have their following in the Council but they cannot bring this to bear on political conditions and cannot, therefore, assist the Government in times of difficulty. The Local Government adds that there is very little that can be done to smooth the working of Dyarchy or to eliminate administrative imperfections.

The Central Provinces.—The Central Provinces Government say that the value of the experiment in Responsible Government during the first Council

was weakened first by the lack of connection between the members and their constituencies, secondly by the absence of any party organisation which would have made responsibility of Ministers to the Council effective, and thirdly by the lack of funds. A fair measure of success in the working of Dyarchy which was achieved was due partly to the moderation of the Council and partly to the efforts made to work the scheme by the Members of the Government and the Permanent Services. Here also the province is for the time being without hope that the appointement of ministers may shortly be found feasible.

Hostility to the Constitution in Assam.—In Assam the Governor-in-Council sums up the difficulty of working the Constitution as due firstly to the existence of a section of public men considerable enough in numbers and ability to influence the Council which is actively hostile to the present Constitution and declines to work it, and secondly to financial difficulties which have precluded the Local Government from undertaking activities other than those of carrying on the essential administrative functions on the pre-existing line."

It is clear from this brief survey "that no short or dogmatic answer can be given to the question "Has the Constitution succeeded ?" It has neither altogether succeeded nor has it altogether failed and it must further be noted by way of additional qualification that where it has succeeded the price of success has been at some stages and in some districts a considerable inroad upon the dyarchical principle. I have not thought it proper to discourage such tendencies holding the view that the whole matter was

experimental and afforded an opportunity to each province to work out its constitutional salvation in its own way."

In view of no categorical judgment being possible on the working of the existing Constitution, it was imposible to say anything about its future. The wisdom of Parliament declared that after a period of ten years the Montagu-Chelmsford Constitution should be revised and it cannot be too plainly stated that everything will necessarily be thrown into the melting pot. Dyarchy itself is very obviously not a sacred principle. It must be decided by the results. The conception was always doctrinaire and artificial. A great measure of success may justify it where a smaller would not."

As to the decennial period fixed for revision by Parliament, it was thought to be a reasonable period though of course Parliament could not have presciently anticipated the Non-Cooperation campaign which has wrecked the Constitution. But "even assuming co-operation, it was thought that a period of ten years would be required to afford the data for reliable conclusion and generalisation. But I do not hesitate to make clear my own view that it was not the intention of the Legislature to attempt to shackle succeeding Governments. If the spirit of cheerful and loyal co-operation was generally exhibited on the one hand or if, upon the other, grave and glaring defects disclosed themselves, it would indeed have been the assumption of omniscence, alien to the Anglo-Saxon tradition, for Parliament to assume so high a degree of prescience as to declare that in no circumstances should the date of Commission be accelerated. In fact the door was never closed. It is on the contrary

open to-day but the condition is clear and precise. There can be no reconsideration until we see everywhere among responsible leaders of Indian thought evidence of sincere and genuine desire to co-operate with us in making the best of the existing Constitution."

Not only would the existing Constitution be revised when favourable signs are in evidence but Parliament would be prepared, said Lord Birkenhead, to examine any Constitution framed in India. "We do not claim in Great Britain that we alone in the world are able to frame constitutions though we are not altogether discontented with the humble constructive efforts which we have made in this field of human ingenuity. But if our critics in India are of opinion that their greater knowledge of Indian conditions qualifies them to succeed where they tell us that we have failed, let them produce a constitution which carries behind it a fair measure of general agreement among the great people of India. Such a contribution to our problems would nowhere be resented. It would on the contrary be most carefully examined by the Government of India, by myself, and I am sure, by a Commission whenever that body may be assembled."

Lord Birkenhead then turned to examine the question of the Indianization of the Army. "An essential factor in India's advance towards Responsible Government is to Indian minds the possession of a national army. We can all see why, and we can all appreciate Indian aspirations, but here again we are in the region of experiment and of very delicate experiment. The method which has been adopted is that of complete, gradual Indianisation, as an experiment, of 8 units. It is criticised as being both slow and

limited in scope. The process must indeed necessarily be slow. The length of time which it ordinarily takes the British Officer to reach the command of his regiment is 25 years and there is no reason to expect that the Indian Officer will take a shorter time, and the experiment is necessarily limited in scope if only by paucity of material; for apart from the fact that we cannot afford to risk lowering the efficiency of our small India Army on which the security of India depends, at present we have difficulty in finding enough Indian cadets up to the Sandhurst standard to provide subalterns even for these eight units. We are doing our best to remedy this.

Indian Sandhurst.—The Prince of Wales Military College at Dehra Dun is beginning to produce boys of more promising type and the Government of India have recently appointed a Committee under the presidency of the Chief of General Staff to examine the whole question of training for the Army. They may recommend the creation of an Indian Sandhurst and if they do we shall consider their recommendation with every desire to do what may appear necessary to make this experiment of Indianisation a success within its limits.

"But until it has been shown to be a success within those limits it is not our purpose to go beyond them. How could we? An army exists for the purpose of fighting, and if we could not get eight units that would fight efficiently what would be the use of trying sixteen? No sane Government will allow its army to become the toy of political parties."

As to the position of the Services under the Reforms the Secretary of State had not to say much beyond

reasserting the principle that the Services cannot help looking up to him to protection until there was an improvement in the popular attitude of criticism towards them in India.

"One of the objections to the present Constitution which is most constantly put forward is that Ministers are prejudiced in their task by the fact that not all the Services which are instruments of their policy are under their control and that the Bill now before Parliament tends towards accentuating this difficulty. I should be the first to welcome the signs that the provisions in the Reforms Act which reserved to the Secretary of State a considerable measure of direct responsibility for Indian Services even in the Transferred sphere were unnecessary; for they would be the best indication that Indian political opinion has realised the vital thing necessary to the well-being of any form of Government of giving the public servants generous support and encourgement in the performance of their duties. Unfortunately such signs are still all too rare and until the public servants, both English and Indian, can feel in India as they can elsewhere that unfair criticism of their actions will be neither voiced nor tolerated by responsible public opinion the reservations in support of the Services contained in the Reforms scheme will unfortunately remain justified and necessary."

After making a passing reference to such topics as the relations with Indian Princes, and the position of Indians abroad, Lord Birkenhead could not conceal his own feeling that his speech would cause great disappointment to large sections of the Indian population. But he pleaded for good-will and co-operation on the part of the Indian people:

"The terms of the preamble are even now not incapable of realisation, but we must first expel and exercise the demon of suspicion. We ask the Indian people to-day with deepest sincerity for good-will and for co-operation."

The long-expected and much advertised pronouncement has come and gone, and it did not fail to produce that keen sense of disappointment in India of which Lord Birkenhead himself was apprehensive. But some of the implications of that speech are, constitutionally, important: *e.g.* the admission that Indian Legislature has to be formally consulted before any final decision is taken; the formal invitation to Indians to frame their own constitution if they can do so; the prospect of the early appointment of a Royal Commission &c. At the same time one cannot help comparing the attitude of the Secretary of State to that of an exacting schoolmaster who scolds a naughty boy for impatiently demanding the next lesson without learning the one already given. It is to be seen what developments are held in the bosom of futurity.

PART V

SOME RESULTS AND PROBLEMS OF INDIAN ADMINISTRATION

CHAPTER XIX

CENTRAL PROBLEMS

(113) 1—INTRODUCTORY

We may compare the constitution of a State to a sort of mechanism through which the citizens of that State expend their energy for their moral and material development. The less friction there is in the machine, the more efficient will be the form of Government. In the bureaucratic form of Government the friction is very great because of the inherent opposition between the Government and the governed. The friction is least in the Responsible form of Government because the people are the Government. The mere provision of a machine, however, is not enough for the progress of a people. There ought to be a corresponding increase in the fund of national energy. The results and problems of administration, therefore, which flow from the working of the constitution, are as important as that constitution itself. Now this is a vast subject, and the very attempt to set forth in a short space even a few of these results is presumptuous. The problems of administration have been rendered more difficult because of the Great War and its results. An extensive programme of reconstruction lies before the Govern-

ment and people of India as before every other country in the world. Some of these topics have been lucidly treated by Sir M. Visvaiswarayya in his suggestive book—*Reconstructing India;* and the activities of Government are neatly summarised in the annual Report of Prof. Rushbrook Williams, the able Director of Public Information. The books mentioned above show what should be done, and what is being done.

It is not proposed to deal exhaustively with the results or problems that are here selected for treatment. It is also not proposed to go into the history of every problem. In fact the object of this Part of the book is rather to give prominence to those problems and results which are of current interest. For that purpose only the latest phase of each question is touched upon. In this Chapter the problems of the Central Government will be taken up, those of the Provincial Governments being reserved for the next. In the former group will be included the questions of the (*a*) Foreign Relations and the Frontier Policy; (*b*) The Indian Army and the problem of Defence; (*c*) Finance and Railway Policy; (*d*) Fiscal Policy; (*e*) the Public Services. The latter will contain; (*a*) Provincial Finance; (*b*) Land Revenue Policy; (*c*) Economic Developments; (*d*) Administration of Justice; (*e*) Local Self-Government and (*f*) Education.

(114) II—FOREIGN RELATIONS AND FRONTIER POLICY

Foreign Relations.—Ever since India came direct under the Crown, there has been a great extension of her relations with the Asiatic neighbours, and corresponding increase in her military preparations, and liabilities and, as a consequence, large additions to the burden of taxation upon the Indian rayat. As

Lord Curzon explained in one of his speeches, this extension was due to two causes. (1) The extension and consolidation of the Indian Frontier brought India into more direct and intimate relations with the countries lying immediately beyond. (2) Secondly, the growing interest which the European Powers *e.g.* Russia, France, and Germany began to take in Central Asia produced the same result. To these we may add the increasing influence of Japan, the revival of China under a Republican form of Government, the advent of Russia as a Soviet power, and the great Pan-Islamic Movement that is going on in South Western Asia.

The position of India with respect to the Asiatic and European powers was thus put in a picturesque manner by Lord Curzon : (Budget speech 1904). " She is like a fortress with the vast moat of the sea on two of her faces, and with mountains for her walls on the remainder. But beyond those walls, which are sometimes by no means of insuperable height and admit of being easily penetrated, extends a glacis of varying breadth and dimensions. We do not want to occupy it, but we also cannot afford to see it occupied by our foes. We are quite content to see it remaining in the hands of our allies and friends ; but if rival and unfriendly influences creep up to it and lodge themselves right under our walls, we are compelled to intervene, because a danger would thereby grow up that might one day menace our security. "

It is the special domain of the Viceroy to watch the Foreign Relations of India with her neighbours.

Frontier Policy:—The problem of the " Defence of India " has been lucidly examined by "Arthur Vincent" in the Oxford Series of "India of To-day." He considers that problem under three sections (1)

Maritime Defence, (2) The Northern, North Eastern, and Burman Frontiers, and (3) The North-West Frontier.

(1) *Maritime Defence:*—Though India does not lie directly upon the great sea-routes she lies to a little north of the main track from West to East. The danger of her vast exposed coast-line was well brought out by the adventurous career of "*The Emden*" during the Great War. But though India cannot be free from such hostile demonstrations on account of progress in naval construction and strategy, it is not likely that so long as England holds the command of the sea, any real danger will come upon her from the Western Coast. A danger from the East on account of the naval programmes of Japan and the United States— is not so improbable and experts believe that the crux of the problem of naval superiority in the Indian Ocean has shifted to Singapore. The idea of developing that base was given up by the Labour Government, but has been again taken up by the Conservative Government. But though no serious danger is threatened to the safety of India from the sea, the supreme importance of protecting her sea communications, her ports and coasts, and the provision of naval bases, dockyards etc. is clear. The naval expenditure of India was represented hitherto by her contribution of £ 100,000 towards the upkeep of the East Indies Squadron of the British Navy. But India ought to have her own Navy as the other Dominions have got their contingents. Her approach to the "Dominion" status requires an independent Navy. It is required not only for purposes of defence, but also for the purpose of encouraging maritime enterprize among the Indians.

(2) *The Northern, North-Eastern, and Burma Frontiers.*—Not much need be said about the defence

of India in these quarters. The Mountain Wall of the Himalayas and the mediæval condition of Tibet protect India on the North. On the North-East the country is equally difficult, and inhabited by wild tribes which are kept under control by the Military Police of Assam though occasionally some military demonstration is required *e.g.*, the Abhor Expedition of 1911. A considerable portion of the Burmese Frontier marches with the boundary of the Chinese province of Yunnan. The country is not quite so inaccessible and is well adapted for large military operations, but no danger is threatened from this sector of the Frontier, so long as the Chinese of this region are in their present state of division and political torpor.

The real problem of defence centres round *the North-Western Frontier.*—In the two Chapters dealing with the territorial expansion of the East India Company, India's relations with Afghanistan were traced up to the year 1857. The twelve years that followed the Mutiny were years of quiet on the Frontier. The danger of Russian invasion was in abeyance and what is called the policy of "Masterly Inactivity" of Lord Lawrence held the field. It consisted in the abstinence from any active interference in the affairs of Afghanistan by the deputation of a high British Officer with or without a contingent, or by the forcible or amicable occupation of any part or tract in that country beyond the natural frontier of India; in placing full reliance upon a compact and highly equipped and disciplined army within or on the border of the country; in securing the contentment of the princes and people of the land; "in the construction of material works in India which enhance the comfort of the people while

they add to the political and military strength; in husbanding our finances and consolidating and multiplying our resources, in the quick preparation for all contingencies which no Indian statesman should disregard; and in a trust in the rectitude and honesty of our intentions coupled with the avoidance of all sources of complaints which either invite foreign aggression or stir up restless spirits to domestic revolt."

In accordance with this policy Lawrence refused to do any thing more than acknowledge Sher Ali, the son of Dost Mahomed, after the latter's death in 1863. Lord Mayo, who succeeded Lawrence, generally followed the latter's policy which he summed up in these words: "We should establish with our frontier states of Khelat, Afghanistan, Yarkand, Nepal and Burma intimate relations of friendship. We should make them feel, that although we are all powerful, we desire to support their nationality. That when necessity arises, we might assist them with money and arms, and perhaps, even in certain eventualities, with men. We should thus create in them out-works of our Empire and by assuring them that days of annexation are passed, make them know that they have everything to gain and nothing to lose by endeavouring to deserve our favour and support."

Lord Mayo's Indian career was cut short by assassination in 1872. His successor was Lord Northbrook. But about that time the Imperial party was getting stronger in England and the danger of Russian invasion revived. Lord Salisbury who became the Secretary of State in 1874 fell in with the view of this "forward school" and desired Lord Northbrook to send a "misson" to Kabul. As the latter was unable to comply with this order, he (Northbrook)

resigned. Thus ended the period of peace which began in 1858.

Disraeli chose Lord Lytton as the successor of Lord Northbrook because "the critical state of affairs in Central Asia required a statesman" and Lytton was in entire accord with the policy of Disraeli. In spite of repeated efforts, however, Sher Ali refused to allow a mission to visit Kabul. With a view, therefore, to isolate Afghanistan and facilitate attack upon it in the event of war, Lytton secured from the Khan of Khelat a footing in Baluchistan. Quetta was permanently occupied by the British by the Treaty of Jacobabad, December 1876. Similarly on the Eastern frontier of Afghanistan, the valleys of Kurm and Khost were occupied, and though in the meanwhile the Russian menace had disappeared, war was declared upon Afghanistan on the 20th November 1878. This war is the Second Afghan War and it was brought to a close by the treaty of Gandmak on May 26th 1879 which assigned to the English the territories of Pishin, Sibi, and Kurm and allowed them to have paramount control "over the external relations of the Amir." But Sir Louis Cavagnari, the British Ambassador in Kabul, was put to death and the War was renewed. In April 1880 the Conservative Government fell and Lord Lytton also resigned. Gladstone was successful in stemming the tide of Imperialism in England and Lord Ripon made peace with the Afghans recognising Abdur Rahman as the Amir and withdrawing the army from Kabul and Kandahar.*

Amir Abdur Rahman was a capable Ruler. He established a firm rule in Afghanistan. Though peace on the Frontier was threatened by the continued

* R. C. Dutt : India under Victorian Age.

aggression of Russia which culminated in what is known as the "Pendjeh Incident" in 1885, war was averted by diplomatic pressure upon Russia. Another important event in the regime of Abdul Rahman was the delimitation of the border between India and Afghanistan in 1894. The Border is known as the "Durand Line." "Spheres of influence" was the name given to the new policy which the Government of Lord Lansdowne set itself to pursue. "This policy aimed at surrounding India's natural frontier with a belt of country in which British influence should alone prevail. With the dwellers along this political frontier no foreign power, Russian, French, or Chinese should be allowed to interfere. The independence of the tribes within this belt was to be carefully respected while the Indian Government claimed to itself the right of making roads through any part of it and maintaining posts at need for their protection."

But the inclusion of places like Chitral, Swat, and Waziristan within the British sphere of influence, and the occupation of the outpost of Chitral threw the whole borderland into commotion which was only kept down by expensive military operations. By the beginning of 1898 some kind of peace was established on the Frontier.

Lord Curzon:—Frontier policy was one of the twelve reforms to which Lord Curzon addressed himself soon after his arrival in India. His policy has been described as "a common sense policy of concentration and conciliation."* It consisted in the withdrawal of regular troops from advanced posts in tribal territory, and their concentration in posts upon or near the Indian border. At the same time the regular troops were to

* Trotter : 446.

be replaced by tribal levies trained by British officers *e.g.*, the Swat and Chitral Levies, the Khyber and Samana Rifles etc. Thus the tribes themselves were to be enlisted for the garrisoning and protection of their own country. The second point in Lord Curzon's policy was the constitution of the North-West Frontier Province under a Chief Commissioner, who was directly under the Governor-General. By this means the relations with the tribes in the five districts of the Punjab were brought under the direct supervision of the Governor-General. But Lord Curzon was aware that "Waziristan" was the weakest link in the whole chain. "Waziristan will for some years to come be a section of the Frontier that will require careful watching," *

Third Afghan War.—Relations continued to be of the closest with Amir Habib-Ullah—the successor of Abdul Rahman. During the first years of the Great War the Anglo-Afghan friendship was sufficiently strong to bear the strain of Turkish hostility. But all of a sudden Habib-Ullah was assassinated in 1919 and his successor Amir Amanulla was driven into a war with the Indian Government. But within four months of the declaration of hostilities peace was established and by the recent Treaty the Amir has accepted the principle of interchange of embassies between the two Powers. But though Afghanistan has been converted into a friend, the danger of Russia is not over. It is not now from 'Czarist' Russia that the blow will come; it is expected from "Soviet" Russia. The agents and emissaries of that Government have been continuously busy and it is difficult to say what the ultimate consequences will be of their revolutionary and mischievous propaganda.

* Curzon's Speeches Vol. II, 157.

The problem of the defence of the N.-W. Frontier was thus expounded by Mr. Denys Bray--the Foreign Secretary in a debate in the Assembly in 1922. He said that it was the region lying between India and Afghanistan that constituted the chief danger on the Frontier. "The wild tribesmen who inhabit this territory have no other occupation but that of raiding, and whenever there is a shortage of food in their barren country, they descend upon the peaceful plains. The danger of the raids has been immensely increased since the Great War and the War with Afghanistan, because it has enabled the tribesmen to secure vast quantities of arms. Not only was the country saturated as it were, with arms, but two tribes particularly—the Afradie, and the Mahsud and Wazir tribes—of Waziristan got entirely out of hand. Of these the Afridies who are more civilized and better organized in tribes were brought under control by Sir John Maffey. But the Mahsuds and Wazirs—who are at once barbarous and ill-organized—proved obdurate, and the whole territory had to be "occupied." But the occupation of Waziristan proved a most costly affair and public assurances have been given of a gradual withdrawal from that region.

We have thus passed under review the opposing policies of "Masterly Inactivity" of Lawrence and "Forward Policy" of Lytton, the policy of Lord Curzon which was a compromise between the two, and the latest phase of the policy—namely the military occupation of Waziristan. The policy has been one of continuous growth and adaptation and the difference between its various phases lies in the degree of importance to be attached to the Russian danger and in the methods of meeting it. The 'Forward School' maintains that the danger is real and is best met on

the farther side of Afghanistan and would not allow the enemy to approach the mountain passes. For this purpose it would annex the whole country right up to Afghanistan and it would spare no effort to keep the Amir an ally of the British Power. The latest development is a modified form of this extreme policy. Though it would abandon the permanent occupation of Waziristan on financial grounds it would construct roads for mechanical transport in the heart of that wild region, and would keep it under control by local militia.

(115) III—THE INDIAN ARMY

Re-organization—After the abolition of the three separate armies of Bombay, Bengal, and Madras in 1893, the next reorganization took place according to the plans of Lord Kitchner. The Indian Army was divided into two parts–the Northern and Southern–each under a General Officer. But the scheme proved most costly and was not fully carried out. The Great War brought out the defects of this scheme and an extensive reorganization took place after the conclusion of hostilities. Under the new scheme the whole of India was divided into 14 districts grouped into four Commands, each district containing a certain number of Brigade commands.

In July 1919 the Esher Committee was appointed by the Secretary of State to inqure into the post-war reform of the Army, its relations with the War Office and India Office, the position of the Commander-in-Chief in his dual capacity as Head of the Army and Member of the Executive Council, and other matters related with the Army. The Commission pleaded for diminution of the detailed control of the Indian army

by the India office; and as for the Commander-in-Chief, he was to be the sole military advisor of the Government of India, and to be the administrative as well as the executive head of the Army, the Army Department and the Head Quarter Staff being consolidated under him.

It was felt, however, that the Army in India was being increasingly brought under the control of the War Office in London and a series of Resolutions was moved in the Legislative Assembly by Sir Shivaswamy Aiyar upon the Report of the Esher Committee which asserted that the purpose of the Army in India was defence of the country against outside aggression; repudiated the assumption of the Esher Committee that the Indian Army cannot be regarded as otherwise than part of the total armed forces of the Empire; recommended that the Commander-in-Chief should cease to be a Member of the Executive Council and, to emphasize the principle of the ultimate supremacy of the Civil power, the Army should be represented in the Executive Council by a civilian, as in England. It also pleaded for the Indianization of the Army.

The Problem of Defence.—Apart from the economic aspect of the heavy burden of military expenditure, the question of defence demands attention on larger considerations of National policy. Responsible Government is meaningless without the willingness and capacity on the part of the people to shoulder the burden of national defence. There has, therefore, been a steady demand that we should take our proper share in defending our country. This demand has taken two distinct shapes: a request for the rapid Indianization of the Army and (2) the extension of the

existing facilities for training young men in the Territorial Force.

Indianization.—Now it has to be clearly understood that Indianization is a process which relates only to the Indian Army. It is in no way connected with the British units which serve in India or with the question of reducing their number. The question of Indianization arises only in regard to a specific portion of the Army in India—namely the Indian Army, and the object is the replacement of British officers of the Indian Army by Indian officers holding King's Commission.

(1) The first steps taken were the giving of Honorary King's Commissions, mainly as War-rewards, to Indian Officers holding the Viceroy's Commissions in the Indian Army. (2) The full King's Commissions were also given to about 16 Indian officers. (3) A number of Indian Cadets was sent to the Royal Military College at Sandhurst for training and qualification for the King's Commission. (4) The next measure was the establishment of the Prince of Wales Royal Indian Military College at Dehradun for the training of Indian youths aspiring for a Military career. It is impossible to overemphasize the necessity of education in the case of such youths. Certain mental qualities—like initiative, resolution, coolness of judgment, and capacity to command have to be developed; and again the scientific and technical aspects of military organization and equipment have to be understood. A high degree of education is required for both these purposes. (5) Government have recently appointed a Committee to go into the question of providing educational facilities to our youths with a view to train them for a military career, and Lord Birkenhead,

in his speech of July 7 referred to this Committee. This is by way of providing the means. As for goal, Government have selected eight units—Infantry and Cavalry—to be completely Indianized in the course of about 25 years—or even a shorter period if Indian officers of out-standing merit were available.

The Indian Territorial Force.—Units have been formed in the different provinces and their total strength is above 11,000. The officers for these are to be found from the Training Corps attached to the Indian Universities and their popularity among the College students augers well for the satisfaction of the general demand for military careers for Indians—A Committee was appointed (containing, as Indian members, Sir Shivaswamy Aiyar and Dr. R. P. Paranjpye) to explore the possibilities of the Territorial Force, and its Report, rather disappointing, has been published.

(116) IV—FINANCE

It is not proposed to go here into the details of Indian Finance. Reference has already been made to the complete separation of Central from Provincial finances, as a result of the introduction of the Reforms.

One conspicuous feature of Indian finance is the large payments which the country has to make in England. They are known as the 'Home Charges' and come annually to about thirty million pounds. They include payment for interest on the capital which India has borrowed in England, for the purchase of Government Stores, for the allowances to Government servants who are on leave in England and for their pensions after retirement, and finally, for a part of the establishment of the India Office, and for the whole of the establishment of the High Commissioner for India.

Turning next to the general financial position of the Central Government one has to note that it was one of the greatest difficulty during the period 1919-1924. It may be roughly said that the Central Government, in the present century, had a surplus budget up to the outbreak of the Great War. But then the finances took an unfavourable turn. Expenditure was allowed to increase in Civil and Military Departments and no attention was paid to popular demand for economy. A new leaf was turned with the arrival of Sir Basil Blackett as Finance Member. In his first Budget Speech he drew a dismal picture of Indian Finance. The accumulated total of the annual deficit was no less than 100 crores in spite of the fact that additional taxation to the extent of 60 crores had been imposed up to 1922-23. He also referred to the growth of the unproductive National Debt of India. The Debt was 411 crores on 31st March 1914; it was 781 crores in 31st March 1923. Of this 557 was classed as productive and 224 as unproductive. Thus there was an increase of 370 crores in nine years.

We shall first give a general Statement of the Revenues of India (Central Government).

General Statement of Revenue *(In Thousands of Rupees)*

Principal Heads of Revenue	Accounts 1922-23	Revised Estimates 1923-24	Budget Estimates 1924-25
Customs	41,34,65	40,41,53	45,01,82
Taxes on Income ...	17,99,41	19,07,45	18,21,97
Salt	6,82,46	8,70,27	10,54,62
Opium	3,78,92	4,30,64	4,33,60
Other Heads	2,34,00	2,34,27	2,22,32
Total Principal Heads	72,29,44	74,84,16	80,34,33
Railways: Net receipts	26,82,98	32,37,87	30,94,93
Irrigation: Net Receipts	10,91	11,20	12,47
Post and Telegraphs: Net Receipts ...	1,22,29	84,94	1,06,12
Interest receipts ...	1,15,70	3,24,25	3,17,25
Civil Administration	44,35	67,49	72,01
Currency, Mint and Exchange	3,62,03	3,07,68	3,63,86
Civil works	14,38	13,19	12,36
Miscellaneous	62,47	3,23,44	67,48
Military receipts ...	5,73,79	4,19,53	2,75,16
Provincial Contributions	9,22,94	9,22,29	7,72,11
Total Revenue	121,41,28	131,96,04	131,28,08
Deficit	15,01,76	... ...	... ...
Total	136,43,04	131,96,04	131,28,08

It will thus be seen from the above statement that quite a substantial portion of Indian Revenue is derived from the commercial operations of the Government.

Going rapidly over the heads of revenue, we may say the following with regard to each :—

Customs—Until recent years the import and export duties were laid upon goods entirely for the purposes of revenue, and during the Great War they were

considerably increased to meet the enhanced expenditure. The schedule of taxes was raised successively in 1916-17, in 1917-18, and again in 1921-22. In the latter year the general *ad valorem* duty was 11 p. c.; a special duty was imposed upon matches and liquor. The duty was 20 p. c. on certain articles of luxury: it was 15 p. c. on sugar; the duty on tobacco was raised by 50 p. c. In 1922-23 the general duty was raised from 11 to 15 p. c. that on sugar to 25 p. c. and on articles of luxury to 30 p. c. The estimated revenue from the customs in 1923-24 was Rs. 45,09,41,000.

Income-Tax.—This tax also has been repeatedly increased. It is now a progressive tax. Incomes below Rs. 2,000 are exempt from taxation; those between 2,000 to 50,000 have to pay a tax from 5 pies in the rupee to one anna and six pies in the rupee. For incomes exceeding Rs. 50,000 there is a super-tax of one anna in the rupee. The super-tax is also a graduated tax increasing from one anna in the rupee to six annas in the rupee; the total yield of Income-tax in 1922-23 was Rs. 22,11,39000.

Salt.—The duty was progressively reduced from Rs. 2-8-0 in 1903 to Rs. 1-0-0 in 1916. In 1917 it was raised to Re. 1-4-0. In 1923 the duty was doubled under circumstances already narrated. It was reduced by 8 as. in 1924 March. The estimated Salt revenue in 1923-24 was Rs. 11,75,00,000.

With regard to the Heads of revenue of the Central Government, it should be noted that a new agency has been created for their collection. The Finance Department is not suited for work of this kind. A Central Board of Revenue of two members has been recently instituted for the collection of Customs, Salt tax, Income-tax, Stamps, Opium revenue &c.

General Statement of Expenditure :—(*In thousands of Rs.*)

Principal Heads of Expenditure	Accounts 1922—23	Revised Estimates 1923—24	Budget Estimates 1924—25
	Rs.	Rs.	Rs.
Direct Demands on the Revenue... ...	5,22,05	5,60,92	5,55,45
Railways: Interest and Miscellaneous charges	25,60,99	26,09,87	26,67,63
Irrigation	13,75	16,51	22,85
Posts and Telegraphs ..	76,99	12,62	—12,29
Debt Service	16,15,89	16,74,88	18,15,15
Civil Administration ...	9,94,32	9,57,10	9,80,36
Currency, Mint and Exchange	1,03,09	1,05,32	77,31
Civil works	1,34,82	1,61,11	2,06,50
Miscellaneous	5,20,56	4,80,13	4,88,73
Military Services ...	71,00,59	63,93,72	63,00,16
Miscellaneous Adjustments between Central and Provincial Governments ...	...	17,79	22,65
Total Expenditure Charges to Revenue...	1,36,43,05	1,29,89,97	1,31,24,50
Surplus ...	...	2,06,07	3,58
Total ...	1,36,43,05	1,31,96,04	1,31,28,08

The Inchcape Committee:—From the above statement it is clear how the expenditure has increased enormously. Reference has already been made to similar growth in Provincial expenditure. This led to agitation for retrenchment, and the appointment of the

well-known Committee under the chairmanship of Lord Inchcape to deal with the expenditure of the Central Government. The inordinate growth in the Military budget was the first to attract the attention of the Committee, who traced it to five main causes :—

(1) The general rise in prices.
(2) The enhanced rates of pay granted to all ranks.
(3) Improvements in the standard of comfort of the troops.
(4) Additions to and improvements in equipment and the adoption of a higher standard of training.
(5) The increase in non-effective charges from 5 crores before the War to 9 crores at the present time.

The Frontier Policy of the Government of India has of course a direct bearing upon the military expenditure. But the Inchcape Committee was informed that there was no idea in the mind of the Government of India of continuing a forward policy of military domination up to the Durand line at the present time, and that the idea has been abandoned.

With regard to military expenditure the Inchcape Committee say: "The expenditure which has been incurred in the past may have been inevitable, but the question is whether India can afford to maintain the military expenditure on the present scale as an insurance against future eventualities. In our opinion repeated huge deficits of the last few years have made it abundantly clear that India cannot afford this expenditure. So long as peace conditions obtain the first essential is for India to balance her budget and this can only be secured by a very substantial

reduction in the military estimates." After suggesting various economies the Commission come to the conclusion that with a fall in prices, it should be possible to reduce the military budget to Rs. 50 crores. Even this amount is excessive and a strict eye should be maintained on the growth of military expenditure.

Railways :—The next considerable item of expenditure in the Indian Budget is the Railways. It is not proposd to go into the history of the Railways. There has been a rapid expansion of the Railways from a mileage of 5369 miles in 1882 to 37,618 miles in 1922-23. Out of these about 9,000 miles of railway are directly managed by the State, and the rest, though owned by the State, are managed by private companies.

The financial aspect of the railways is briefly this :—

—	1922—23	1921—22
Total mileage open ...	37,618 miles	37,266 miles
Total Capital outlay ...	669 Crores	648 Crores
Gross earnings	106 ,,	93 ,,
Working expenses ...	73 ,,	71 ,,
Net Earnings	33 ,,	22 ,,
Per cent of working expenses to gross earnings...	69 Per cent	76 Per cent
Per cent of working expenses to total captial outlay	4·88 ,,	3·41 ,,

A striking peculiarity of Indian Railway finance has been its great uncertainty. Railways were a source of loss at the end of the last century. Whatever

surplus they brought in during the next few years was absorbed in their expansion. There were successive deficits in the Railway Budget after the War, in spite of a general increase in the passenger and goods rates. Thus in 1921—22 there was a deficit of 10 crores of rupees, though in the next year there was a surplus of 1·22 crores.

Being the most important item in the Indian Budget on the expenditure side, the Railways came in for a good deal of criticism at the hands of the Inchcape Committee. Three years previously another important Committee had been appointed with the late Sir William A. Acworth as Chairman to go into the various problems of Railway management in India. The present Railway policy of the Government of India is being shaped in the light of the recommendations of these two Committees. The more important of the questions dealt with, we may summarise as follows:—

(*a*) *Capital Programme*—The Acworth Committee recommended that some 150 crores of rupees should be spent on Railways during the succeeding five years. The Government accepted this programme; but in the first year not more than 12 crores could be spent and the Inchcape Committee was opposed to this enormous outlay. They laid down:

(1) Curtailment of working expenses of Railways so as to ensure an average return of 5½ p. c. on the capital expended on Railways. The Railways were actually earning 5 p. c. before the War and every effort should be made to secure the 5½ p. c.

(2) The policy of spending annually 30 crores on the old lines should be abandoned. Many of the old lines are not remunerative and it is absurd to sink more capital in them unless absolutely necessary to do so.

Each Railway should provide for its own repairs and maintenance. Fresh capital should be spent on the construction of new lines that promise to be remunerative."

The Railways would not become the source of loss that they frequently are if these rules are observed.

In any case the large capital expenditure that is incurred upon the Railways should be made to go a considerable way in encouraging Indian industries. At present most of the Railway material is imported from abroad. It should be possible to manufacture that material in the Indian Workshops attached to the Railways. These workshops will also prove valuable as schools in the practical training of Indians in Mechanical Engineering and other Technical branches, and thus solve another important problem connected with Indian Railways *viz.* the increasing employment of Indians in them.

(*b*) *Railway Management*—As the major part of the Railway lines is owned by the State though managed by Companies that have their Boards of Directors in London, the question is naturally raised as to what should be the best method of Railway management—whether they should be directly managed by the State or by private Companies, and whether the Companies should have their domicile in England or India? In any case what should be the nature of the organization by which the Government of India should attend to its ever-increasing responsibilities with regard to Railways in the land?

The Committee appointed in 1920 with Sir William A. Acworth as Chairman, and the Rt. Hon. V. S. Shastri, Mr. (now Sir) Purshottamdas Thakordas, and Sir R. N. Mookerji as Indian Members, was not

unanimous on this point. Though the members agreed that the time had come for abolishing the management of Railway lines through Companies domiciled in England, four members (including the Chairman) were for State Management, and 5 members were for Company Management—but the Companies were to have their head-quarters in India.

But the Government have now definitely adopted the principle of State-management. The contracts with two big Companies—the East India and the Great Indian Peninsula Railway—are over and these railways are now under State management. There was a great discussion over this question in the Legislative Assembly, and as Sir Charles A. Innes confessed, the departure from policy caused him great searching of heart.

(*c*) *Railway Administration* :—With regard to the machinery by which Government should administer Railways, the Acworth Report is more unanimous. Ever since 1905 there was a Railway Board consisting of a chairman, two members, and a secretary, with the Government of India. It was under the control of the Member in Charge of the Department of Commerce and Industries. In 1908 the Chairman of the Board was made a Secretary to Government with the right of independent access to the Viceroy, and he was also appointed a member of the Indian Legislative Council to represent Railway interests. It was felt, however, that adequate justice was not done to the importance of Railways. Important changes were, therefore, made in the light of the recommendations of the Acworth Committee. The Railway Board has been replaced by a Railway Commission. The Chief Commissioner decides upon all technical matters connected with

Railways and is the advisor of the Government of India on matters of railway policy. He cannot be overruled or outvoted by his other colleagues, one of whom is called the Financial Commissioner, and other the Chief Mechanical Engineer.

(*d*) Another direction in which the recommendation of the Acworth Committee has been adopted is the *separation of Railway finance* from the ordinary budget of the Central Government. Formerly it was difficult to find whether the Railways were a losing or paying concern because the statistics were complicated and often misleading. But now there has been an improvement and the Railway budget has been separated and simplified.

Other Items of Expenditure:—With regard to the other items of expenditure in the Central Budget not much need be said. The great increase under Debt Service is due to the many loans the Government had to contract during the Great War and the period of deficit that followed. For years to come there is little scope for saving under this head. Equally limited is the scope for retrenchment under the head of general Civil Administration. When we also bear in mind that the Provincial contributions must cease in the near future, we can realize the inherent difficulties of the financial position of the Government of India.

It was probably this dismal prospect before Central finance that induced Government to appoint the Taxation Enquiry Committee. The feeling was that the distribution of the burden of taxation upon the various sections of the population was not equal; that probably the burden has reached its limit; also that the division of the proceeds of taxation is not satisfactory, as between the Central, Provincial, and Local

Bodies and it was to investigate into these questions that the Taxation Committee was appointed. The Resolution appointing the Committee says :—

"The motive for the appointment is not any need for meeting additional expenditure or any intention to increase the total amount raised by taxation in India. The necessity for the inquiry arises largely from the effect produced by the War on the general level of prices and of expenditure, and consequently, on the incidence of taxation in its existing forms. The problems arising therefrom are common to many countries, but in India the changes which have been made since the War in the relation between the Central and the Provincial Governments and the development of Self-Government furnish special reason for the study of the subject of taxation in general and for an examination of alternative sources from which to raise money to meet the expenditure which is necessary to be incurred by the various taxing authorities at the present time.

The increasing pressure for a more drastic regulation of the liquor traffic in particular makes necessary the study of alternative sources of taxation. The system of taxation which may be expected to result from the action taken on the recommendations of the Indian Fiscal Commission and the Tariff Board will disturb the distribution and affect the real burden of taxation borne by the people of India."

It is not the object of this Committee to examine the scale of expenditure of the Central or Provincial Governments, nor to suggest ways of economy. Their concern will be to ascertain the total burden of taxation per head of the population on account of the Central and Provincial Governments and the Local

Bodies. Nor will the Committee go into the equity of the Meston Award. The important subject of Land Revenue also will come before the Committee in an indirect manner.

Indeed it was early realized that a thorough enquiry into the general economic condition of the people was imperative and another Committee with Sir M. Vishwesharaya as Chairman has been appointed to make the preliminary survey. This is a gigantic work and may possibly last for years, with what practical results, it is difficult to anticipate.

(117) V—FISCAL POLICY

One of the most deplorable results of the advent of British Rule to India has been the destruction of her indigenuous industries. Indian opinion, rightly or wrongly, attributed this to the adoption of a Free Trade policy by the Government of India, which has been the traditional policy of England for so many years. But many causes combined during the last few years to bring into special prominence the question of the fiscal policy most suitable to India.

(1) The Great War showed how the very existence of nations in modern times is bound up with an all-round and up-to-date progress in industrial matters. It was mainly on account of this experience that the Government of India had to appoint the Industrial Commission to inquire into the possibilities of development of Indian industries. But this Commission was precluded from examining the fiscal policy of India.

(2) The declared policy of Parliament to give Responsible Government to India was bound to have important influence upon a number of problems of a social and economic character and the authors of the

Reforms as well as Members of the Joint Parliamentary Committee had no doubt that fiscal autonomy would follow in the wake of the grant of Responsible Government to India. Important witnesses like Sir James Brunyate declared before the Joint Committee that the value of the Reforms will be seriously compromised if they were not accompanied by a definite assurance regarding India's fiscal policy. The Joint Committee accordingly laid down the following dictum: " A satisfactory solution of the question of fiscal autonomy can only be guaranteed by the grant of liberty to the Government of India to devise those tariff arrangements which seem best fitted to India's needs as an integral part of the British Empire. It cannot be guaranteed by statute without limiting the ultimate power of Parliament to control the administration of India, and without limiting the power of veto which rests in the Crown; and neither of these limitations finds a place in any of the statutes in the British Empire. It can only therefore be assured by the acknowledgment of a convention. Whatever be the right fiscal policy of India, for the needs of her consumers as well as for her manufacturers, it is quite clear that she should have the same liberty to consider her interests as Great Britain, Australia, New Zealand, Canada and South Africa have. In the opinion of the Committee, therefore, the Secretary of State should as far as possible avoid interference in this subject when the Government of India and its Legislature are in agreement, and they think that his intervention, when it does take place, should be limited to safeguarding the international obligations of the Empire, or any fiscal arrangements within the Empire to which His Majesty's Government is a 'party.'

(3) The next cause was the appointment of the Indian Fiscal Commission under the Chairmanship of the Hon. Sir Ibrahim Rahimtoola and it came unanimously to the conclusion that the policy of protection was best suited to the condition of India and that it should be applied with discrimination.

(4) Fourthly, ever since the War there has been in England—the Home of Free Trade—a strong reaction in favour of Protection, or, at any rate, Imperial Preference.

(5) And finally, largely on account of financial stringency, the Indian Tariffs had undergone a great change as shown above. It was inevitable, that in view of such wide variations in the duties, the question of levying the duties on other than purely revenue considerations should arise.

And a Resolution definitely recommending the adoption of a Protectionist policy for India was moved in the Legislative Assembly on 16th Feb. 1923 by Mr. Jamnadas Dwarkadas. In its place was adopted the following, which represented the considered policy of the Government of India.

That the Assembly recommends to the Governor-General-in-Council :—

(*a*) That we accept in principle the proposition that the fiscal policy of the Government of India may legitimately be directed towards fostering of the development of industries in India;

(*b*) That in the application of the above principle of protection, regard must be had to the financial needs of the country and to the present dependence of the Government of India

on import, export, and excise duties for a large part of its revenue;

(*c*) That the principle should be applied with discrimination, with due regard to the well-being of the community and subject to the safeguards suggested in paragraph 97 of the Report of the Fiscal Commission.

(*d*) That in order that effect may be given to these recommendations, a Tariff Board should be constituted for a period not exceeding one year in the first instance, that such Tariff Board should be purely an investigating and advising body and should consist of not more than three members, one of whom should be a Government Official, but with power, subject to the apporval of the Government of India to co-opt other members for particular inquiries."

As the Hon. Sir C. A. Innes said, this announcement, embodying a departure from the traditional policy, marks an epoch in the fiscal history of India. The first three clauses embody the principle of Protection with the proper safeguards; the fourth shows how the principle is to be applied in practice. We must decide what industries need and deserve protection and what kind and measure of protection they should get. It is the province of the Tariff Board to investigate these two questions.

The Tariff Board was accordingly appointed—one of its members being the Hon. Prof. V. G. Kale. During its first year it investigated the condition of the Indian Steel Industry with special reference to the Tata Steel Works at Jamshedpur. The Board recommended the imposition of protection duty on steel and a Bill to that effect was passed by the Legislative Assembly.

As a further measure of protection substantial bounties also have been given to the Steel Work. The Tariff Board has inquired into, and made recommendations concerning, other important industries also. *e. g.* paper &c.

(118) VI—THE PUBLIC SERVICES

Detailed reference has previously been made to the constitutional position of the Services under Dyarchy and to the recommendations of the Lee Commission in that connection. The question will be now resumed with special reference to two aspects the consideration of which was there postponed *viz.* Indianization, and Improvements of prospects.

Indianization :—The number of Indians admitted into the Public Services (*i.e.*, their Indianization) was very meagre up to the publication of the Report of Mr. Montagu and Lord Chelmsford. Lord Chelmsford declared in the Viceregal Councll in September 1917 that the employment of Indians in more responsible positions under the Government was one of the methods of advancing towards self-Government. Thus increasing Indianization of the services is at once an end in itself and a means to the attainment of Self-Government. As the M. C. Report puts it: "The success of the new policy which has been adopted towards India very largely depends on the extent to which it is found possible to introduce Indians into every branch of administration. It is a great weakness of public life in India to-day that it contains so few men who have found opportunity for practical experience of the problems of administration. Although there are distinguished exceptions principally among the Dewans of Native

States, most Indian public men have not had an opportunity of grappling with the difficulties of administration, nor of testing their theories by putting them into practice. Administrative experience not only sobers the judgment, and teaches appreciation of the practical difficulties in the way of the wholesale introduction of reforms however attractive, and the attainment of theoretical ideals, but by training an increasing number of men in the details of day-to-day business it will eventually provide India with public men versed in the whole art of Government. If responsible Government is to be established in India there will be a far greater need than is even dreamt of at present for persons to take part in public affairs in the Legislative Assemblies and elsewhere; and for this reason the more Indians we can employ in the public services the better. Moreover, it would lessen the burden of Imperial responsibilities if a body of capable Indian administrators could be produced."

There should be more Indians not only in the routine business of administration, but also in responsible posts in the Secretariat. It was with this object in view that the Right Hon. Mr. Shastri moved a Resolution in the Council of State that such posts should be thrown open to Indians "to give them an insight into the larger problems of Imperial administration and policy." It was also the faint realization of this aspect of Indianization that urged a member of the Legislative Assembly to move that in the composition of the public services "a fair chance should be given to candidates of different communities and provinces." It is clear, however, that the drawbacks of making appointments to the public service on communal grounds are more serious than

those resulting from making similar appointments to the Legislature. The whole position was put by Sir Malcolm Hailey in the following words: "The Public Services should be recruited on the principle that they should be filled by the most competent men available. This principle is, however, subject to modification in the interest of the training of Indians in the administration of their own affairs. Full opportunities should be afforded to Indians to qualify themselves for the more important posts in the Public Services and to demonstrate their fitness for responsible duties. It must, however, be recognized that intellectual qualifications combined with physical capacity should not be the sole test for admission to important posts in the Public Services. Due regard must also be given to such considerations as character and hereditary connection of the candidates both with Government and the people with whom their work will mostly lie; while in the present condition of India it is essential that there should not be an undue predominance of any one class or caste."

Thus the process of Indianization should be uniform both vertically *i.e.* in all grades of appointments, and horizontally, *i.e.* with respect to all communities and provinces. As for the limit of Indianization, the Authors of the M. C. Report were satisfied that a proportion of 48 p. c. of posts to be held by Indians, in the course of ten years following the inauguration of the Reforms would meet the situation satisfactorily. In the light of this recommendation a Resolution was issued in December 1920 explaining the new principles of recruitment and organisation of the Civil Service. The insistent demand for *simultaneous competitive examination in India* was partially conceded. In addition to this method,

there was also adopted the method of nomination with a view to secure the representatives in the Services of various provinces and communities, of promotion from the Provincial Service, and finally, recruitment from the Bar.

The limit of Indianization indicated by the M. C. Report, though not over-liberal raised, a hue and cry among the Anglo-Indians both in India and in England. Even the Government of India became apprehensive and they addressed a letter at the end of May 1922 to the Provincial Governments which became famous as the "O'Donnell Circular." This document reviewed, and invited the opinion of the Provincial Governments upon, the various considerations involved in the question of Indianization in order that the Government of India might consider the whole position. "The letter which had not been written for publication was given to the world through journalistic enterprize.*" There was great agitation over the publication of this circular. The agitation was intensified by the famous "Steel Frame speech" of Mr. Lloyd George in August 1922. He said that the Reforms were an "experiment" and that the "Steel Frame of British Civil Service" must be maintained for all time to come with its existing rights, privileges, and functions. It was argued that this speech was inconsistent with the declared policy of Parliament, and with the Indianization of the Services. The Viceroy, however, removed the fears caused by the speech by making public an assurance from Mr. Lloyd George that he never intended to say anything that was in conflict with the declared policy of His Majesty's Government.

This agitation in England and India directly led to

* India in 1922-23, Page 28●

the appointment of a Royal Commission under Viscount Lee of Fareham. As Sir Malcolm Hailey announced on January 25, 1923 in the Legislative Assembly. "His Majesty's Government have decided to appoint a Royal Commission on the Services in India which will have, in view of the necessity of maintaining a standard of administration in conformity with the responsibilities of the Crown for the Government of India and the declared policy of Parliament in respect of the increasing association of Indians in every branch of the administration, and having particular regard to the experience gained by the operation of the system of Government under the Government of India Act, to inquire into the organization and the general conditions of service, financial and otherwise, of the superior Civil Services in India, and the best methods of ensuring and maintaining the satisfactory recruitment of such numbers of Indians and Europeans respectively as may now be decided to be necessary in the light of the considerations above referred to."

Amongst its members we may mention Mr. N. M. Samarth, Sir Reginald Craddock, Mr. Bhupendra Nath Basu, and Prof. Coupland. The Commission commenced its inquiry on November 4 and signed its Report on March 29, 1924. The Lee Commission accepted the limit of Indianization as laid down in the M. C. Report and worked out the following details. For the I. C. S. it considered desirable that to promote increased feeling of comraderie and equal sense of responsibility, the proportion of half Europeans and half Indians should be attained without undue delay. Some members attached particular importance to maintaining the principle of equality in rates of direct recruitment which should be 40 Indians and 40 Europeans out of

every 100, the remaining 20 being promoted from the Provincial Service. This ratio of recruitment of 40 Europeans to 60 Indians would produce half and half composition of the Service in about 15 years.

In the Indian Police Service, recruitment is to be fifty per cent European and fifty per cent Indian, the latter being composed of thirty per cent taken by direct recruitment and twenty per cent by promotion from the Provincial Service of men of whose fitness for such posts the Commission had convincing evidence. In this Service the composition of half European and half Indian would be attained in about 25 years,

The recruitment to Indian Forest Service in the Provinces where Forest is a reserved subjects should be 75 per cent Indians and 25 per cent Europeans.

Recruitment for Irrigational Engineers is to be 40 per cent Europeans and 60 per cent Indians, 40 per cent being directly recruited and 25 per cent promoted from Provincial Service.

It is pointed out by the Commission that, while the question before the Islington Commission was how many Indians should be admitted into Public Services, the question before the Lee Commission was what is the minimum number of Englishmen which must still be recruited. The Commission hopes that in respect of provincialized Services the Ministers would still wish to obtain the services of Europeans in technical departments and that Europeans would show as much willingness to take service under Local Governments as under the Secretary of State.

The proposals for the Indianization of the Central Services are: (A) Political Department; 25 per cent. Indian recruitment from I. C. S., Provincial Civil

Service, or Indian Army. (B) Imperial Customs Service, recruitment to be on present basis. (C) Superior Telegraph and Wireless branch, recruitment should be 25 per cent in England and 75 per cent in India. (D) The Commission recommends that existing training facilities should be pushed forward so that, as soon as practicable, 75 per cent recruitment can be made in India and 25 per cent in England to the posts of State Railway Engineers and Superior Revenue Establishment, State Railways. For the remaining Central Services, recruitment should be at the discretion of the Government of India.

To turn next to the *improvements* which the Commission has recommended in the *prospects of the Public Services*: as regards *pay and allowances*, the Commission observes that the insistent complaint of Services has been that so little has been done to give effect to the recommendation of the Montagu-Chelmsford Report to restore the real pay of the Services to the level which proved attractive 20 years ago. The present pay is far below such level. Moreover, says the Commission, the existing disparity of remuneration as between commercial and official career has become so conspicuous and so discouraging to the Civil Servants that something should be done to restore contentment. Although many non-official witnesses urged reduction in the basic pay of Indians, the Commission has decided against lowering the basic pay, partly because of the almost unanimous representation by Indian Officers that their position was no less embarrassing than that of the European Officers. Apart from the Indian Police Service and the Indian Service of Engineers, it is not proposed to increase

the basic pay of the Services in the I. P. S. The basic pay of inferior scale should be raised by Rs. 25 a month. The basic pay of superior scale, beginning at sixth year, should be increased by Rs. 50 up to the tenth year, then by Rs. 75 a month to the 13th year, then by Rs. 100 a month for ensuing four years, then by Rs. 75, Rs. 50 and Rs. 25 a month for 18th, 19th and 20th year of service, thereafter remaining as at present. In the case of the Indian Service of Engineers, it is recommended that the technical pay should be reckoned as part of the basic pay. For Services other than the I. P. S. and women's branch of the I. E. S. rise in the overseas pay from Rs. 150 where it occurs should be Rs. 250 instead of Rs. 200 as at present, while from the 12th year of service onwards the rate of overseas pay should be raised from Rs. 250 to Rs. 300. In the I. P. S. the recruits of which are about three years younger than in other Services, the overseas pay should be Rs. 100 in first three years, Rs. 125 in the fourth year, Rs. 150 in the next four years, Rs. 250 in the next six years and Rs. 300 in the 15th year and thereafter to the end of the time scales.

The difficulty about *exchange* is met by the recommendation that in the case of all Services from the fifth year of service onwards, every officer of non-Asiatics domicile should be entitled to remit his total overseas pay through the High Commissioner at two shillings to a rupee or to draw it in London in sterling at that rate. The Indian members entitled to overseas pay should draw the increase proposed, but should have the privilege of remittance only if they satisfy the High Commissioner that they have wives or children in Europe.

As regards the Central Service, the Report recommends that in principle the concessions proposed for all-India Services should *mutatis mutandis* be granted to all European Officers in the Central Services appointed by the Secretary of State and those European Officers who, though appointed by the Government of India, were appointed on the basis of non-Asiatic domicile. The recommendations about other Services are that officers appointed in future to the Judicial Branch of the I. C. S. should not receive judicial pay, because this additional attraction is not needed now. It should not however be withdrawn from the existing recipients. The technical pay of the superior Telegraph Branch should be reckoned as part of the basic pay. The Military officers serving in the Political Department should receive the same pay as the officers of the Indian Civil Service in that Department.

The *passage difficulty* is proposed to be met by laying down that an officer of non-Asiatic domicile in Superior Civil Services should receive four return passages during his Service (of standard P. & O. first Class B.) and when married his wife should be entitled to as many return passages as may be to his credit. One single passage should be granted to each child.

The scheme is to be extended to the Indian Officers of the Indian Civil Service who receive overseas pay, but should not extend to their families. The family of an officer who dies in service should be repatriated at the Government expense even though he has exhausted the full number of passages admissible. Roughly, the passage benefit works out at Rs. 50 per month for European and perhaps Rs. 25 for Indian officers. But in order to avoid this allowance being eaten up by other requirements, the Commission asks

the Government to establish a passage-fund out of which it would pay for the passage of officers. Any surplus of the fund will revert to the Government. Monthly additions credited to the pay under this fund would not count towards the pension or leave or furlough allowances.

No increase is recommended in the I. C. S. *pensions* having regard to the fact that in 1919 officers contributing four per cent of their salary towards the pensions were relieved of the necessity of doing so and the question of the refund of past contributions cannot be reopened. As a result of far-reaching responsibilities brought by the Reforms the Commission recommends that the members of the I. C. S. who rise to the rank of the Members of the Council should get an additional pension of £50 for every year of service as such up to a maximum total pension of £ 1,250. Those who serve as Governors to receive an additional £100 annually up to a maximum total pension of £1,500.

The late Mr. Basu dissenting said that the spirit of comraderie and equality in rank of the Civil Service must be maintained.

No change is recommended in the existing scale of invalid annuities so far as the I. C. S., is concerned. The present pensions of the Uncovenanted Services are considered inadequate. It is proposed that the present pension of five thousand rupees per annum after twenty-five years of service rising by two hundred rupees per annum to six thousand, be increased to six thousand after thirty years, rising by rupees two hundred per annum to seven thousand rupees. The maximum pensions taking account of the additional pension earned by service in higher appointments,

would then become rupees eight thousand five hundred (lower grade) and nine thousand five hundred (upper grade). The limit of ten years before which an invalid annuity can be earned in the Uncovenanted Service should be reduced to seven years and scale be improved.

No change is recommended in the pension of High Court Judges and Chaplains.

The Commission further recommends that a new rule be made to grant extraordinary pensions to officers killed or injured whilst not actually in execution of their duty, but for reasons connected with their official position or actions.

Turning to the question of offering *security* to Servants serving in the Transferred and Reserved fields the Commission makes the general suggestion that mutually binding legal covenants enforceable in Civil Courts should be entered into between the officers and the authorities appointing them. The existing members of the services should also enter into such covenants which should include clauses securing pay, leave-rules, passages, remittances, privileges, pension-rules, etc., and the right to compensation in the event of dismissal without due notice or any breach of the condition of contract, as well as right to retire on proportionate pension in specified circumstances with regard to future recruits. It should be laid down that if and when the field of service for which members are recruited is transferred it shall be open to them (A) either to retain their all-India status, (B) to waive their contracts with the Secretary of State and to enter into new contracts with the Local Government concerned, or (C) to retire on proportionate pensions with the option to remain open for one year

from date of transfer. The present rate of proportionate pension is considered by the Commission generous enough. The privilege of proportionate pension should be extended to those recruited in 1919 who did not arrive in India before 1st January 1920. But no alteration is recommended in the existing rule laying down that the War service of officers, prior to their appointments, should not count as service for the purpose of this pension. The extension of the privilege of proportionate pension to Central Services is not recommended. It is further laid down that the existing members operating in the reserved fields should have, in addition to the present rights, the right to retire on proportionate pension under the circumstances defined for future recruits, if and when the field of service is transferred as stated above.

Finally, the Report also suggests relief in respect of calculations for *rent* for houses supplied by the Government and Officers' liability in respect of house rent is limited to ten per cent of his monthly emoluments, the Government paying excess in case the officer occupies a private house.

The Public Services Commission.—Bearing upon the question of Indianization and the position of the Services in the country, the Lee Commission strongly recommends the immediate establishment of Public Services Commission as contemplated by the Government of India Act. Experience has shown, says the Report, that wherever democratic institutions exist, some impartial body is necessary to protect the Civil Services from political influences and give them stability and security. The Commission points out that since the passing of the Act, prolonged correspondence extending over four years has passed

between the Secretary of State, the Government of India and the Local Governments without arriving at any decision about the setting up of this Commission. The Lee Commission is convinced that this Commission should be established without delay and recommends that the Commission should be an all-India body consisting of five Commissioners of the highest public standing, detached so far as practicable from political associations and possessing, in the case of at least two, high judicial or legal qualifications. Their emoluments should not be less than those of the High Court Judges. The function of the Commission would be (A) recruitment in India for all-India Services, Central Services and, if Provincial Governments so desire, also for Provincial Services. The Commission would be the final authority in determining, with the Secretary of State, the Government of India or the Local Governments as the case may be, the standards of qualifications and methods of examinations for recruitment in India. (B) The exercise of functions of quasi-judicial character in connection with disciplinary control and protection of Services. Appeals to the Governor-General-in-Council by the aggrieved officer against such orders of the Local Governments as are declared by the Governor-General-in-Council to be appealable should be referred to the Commission which should report to the Government of India with its recommendations as to the action, without prejudice to the right of appeal of the aggrieved officer to the Secretary of State provided the Commission certifies the case as fit for such appeal. Appeals from the Government of India would first be referred to the Commission who would report to the Secretary of State. In the case of allegation of the breach of

legal covenant the Commission would certify whether "*prima facie*" it is a fit case for adjudication by a Civil Court. If such a case is sustained, the whole cost of proceedings should be defrayed by the Government concerned. The Commission would be an expert body about the Services. The Report regards the recommendations in respect of this Commission as one of its cardinal features as forming an integral and essential part of the whole structure of the proposals about the Services. The Secretary of State has recently announced that the Commission would be appointed in the near future.

Summary and Criticism.—Curiously enough, while the question of the constitutional advance of the country is still hanging fire, and after becoming the subject of protracted and personal conversations between the Viceroy and the Secretary of State and of the pronouncement on July 7 in the House of Lords, might possibly suffer a set back on account of the development of the political situation in India the main recommendations of the Lee Commission have been already accepted by the Secretary of State and effect is being given to them by executive orders or legislation. For one thing the Report was a unanimous document though the Commission, from its very commencement, was working in an atmosphere that was charged with political and racial hostility and it is no small tribute to its President that he should have managed to have a unanimous Report. It is estimated that the cost of their proposals for the improvement of the pay &c., of the Services would be about a crore of rupees in the first year and would increase to one crore and quarter in course of time. Out of this some 22 lacs would fall on the Central budget,

and the remaining cost will be distributed over the provinces. This increased burden at a time when taxation seems to have reached its limit is all the more deplorable, but apparently it is the price India has to pay for her transition to a form of administration which will in fulness of time, be both manned and controlled by Indians.

CHAPTER XX

PROVINCIAL PROBLEMS

(119) I.—PROVINCIAL FINANCE

The best way of indicating the present state of provincial finance would be to examine a recent budget of a typical province *e.g.* Bombay.

The principal items of revenue and expenditure for the year 1923-24 were as follows.

	......	(Figs. in Thousands of Rs.) Revenue.	Expenditure.
1	Land Revenue	5,08,89	1,82,85
2	Excise	4,34,59	35,36
3	Stamps	1,79,89	5,03
4	Forests	71,50	44,01
5	Registration	12,87	6,75
6	Scheduled Taxes	9,40	18
7	Irrigation	54,02	1,00,91
8	Interest	1,02,75	1,45,68
9	Sinking Fund	......	9,39
10	Administration of Justice	14,82	69,93
11	Jails and Convict Settlements	5,18	25,04
12	Police	5,90	1,68,29
13	Education	10,04	1,93,22
14	Medical	6,47	44,33
15	Public Health	8,35	20,20
16	Agriculture	3,54	24,07
17	Industries	4	1,69
18	Miscellaneous Departments	2,01	5,95
19	Civil Works	17,89	1,00,41
20	Superannuation allowance and pensions.	15,80	60,74
21	Stationery and Printing	2,73	18,64
22	Miscellaneous	14,30	22,92
23	General Administration	......	1,03,19
24	Ports and Pilotage	......	38
25	Scientific Departments	......	65
26	Famine Relief and Insurance	......	33,60
	Total ...	14,80,98	14,13,41

Additional remarks will be made upon these heads of revenue and expenditure in connection with the administration of those Departments. But the preceding Table forcibly brings out how no increase of revenue is either possible under certain heads *e.g.* Land Revenue, Stamps &c. or desirable under others *e.g.* Excise. The only way of securing more funds for agricultural improvement, education, sanitation &c. is to retrench expenditure in other directions, to impose other taxes (if possible), or to discontinue the provincial contributions to the Central Government. In this connection the extreme unfairness of the Meston Award with regard to the Bombay Presidency has to be emphasized. The province of Bombay contributes some 8 crores of income-tax to the Government of India or 40 per cent of the total income-tax of all India, out of which it gets back nothing. On the other hand the general scale of expenditure on administration has to be necessarily high on account of the advanced and industrial nature of the province. This raises the whole question of the proper distribution of revenue between the Central and Provincial Governments.

(120) II.—LAND REVENUE POLICY

General Principles:—The main principles of this subject have already emerged in the course of the historical enquiry in the seventh chapter. The most controversial question was with regard to Permanent or Temporary Settlement. Though the Court of Directors admitted that land revenue was not a 'rent' but 'tax' in their Despatch of 1856, they were definitely opposed to the extension of the Permanent Settlement to other parts of India. Such a proposal

was, however, revived about 1860. It was favoured by Sir Charles Wood, Lord Canning, and Lord Lawrence, but after a good deal of correspondence, it was turned down in 1883 by Lord Kimberley—the then Secretary of State .

At the same time the defects of a Temporary Settlement are reduced to a minimum, and the interests of the State are not sacrificed if. (*a*) the period of Settlement is sufficiently long, (2) the revision operations are cheap and expeditious and, (3) if enhancement of assessment is allowed on specific grounds *e.g.* extension of cultivation, increase of produce due to improvements made by the State such as irrigation or railways, or finally, rise in prices. This was the kind of compromise between the opposing policies of Permanent and Temporary Settlements suggested by Lord Ripon. But Lord Ripon's proposals were rejected by the Secretary of State, and for the next twenty years the controversy abated.

The famines of 1899 and 1900—the worst in the whole century, and aggravated by the horrors of the new epidemic of plague—again brought the whole question before the public. Representations were made to the Secretary of State and Mr. R. C. Dutt particularly pleaded for Permanent Settlement. He regarded it as the panacea for all the economic evils from which India was suffering. He addressed open letters to Lord Curzon, and the latter replied by issuing the famous Resolution of January, 1902, on the Land Revenue Policy of the Indian Government. Since that time the settled policy of the Government is not to forego its share in the unearned increment of the land revenue by adopting the Permanent Settlement.

Land Revenue under the Reforms.—The question was revived at the time of the Reforms. The controversy centred round the question—whether Land-revenue should be a Reserved Subject or a Transferred Subject, and whether the underlying policy be made amenable to the control of the Provincial Council. Mr. Feetham, the Chairman of the Functions Committee, said that as the agricultural rayats were yet illiterate and inadequately represented in the new Councils the latter should not make a radical departure from the traditional policy, and that the revision-operations were based upon a set of technical rules issued by the Executive which were not capable of being examined by the Legislative Council. He argued that "Land revenue must be put on a statutory basis more completely than at present before it could be transferred."

On the other hand Sir Sankaran Nair held the Land Revenue policy of Government chiefly responsible for India's poverty. He recommended that Land Revenue should be treated as revenue pure and simple and the principles of its imposition should be determined by the Legislative Council and not by executive orders. "At present, outside the permanently settled Zamindaris, the theory maintained by the Executive Government is that land is the private property of the Crown, the land-holder being bound to pay any assessment that may be fixed by Executive Government at their discretion; India is the only country in the world where neither law, nor custom, nor competition determines the revenue or rent."

The Joint Parliamentary Committee had a similar complaint against the land revenue policy. They said: "the Committee are impressed by the objections raised by many witnesses to the manner in which certain

classes of taxation can be laid upon the people of India by executive action without, in some cases, any statutory limitation of the rates, and in other cases, any adequate prescription by statute of the methods of assessment. They consider that the imposition of new burdens should be gradually brought more within the purview of the Legislature. And in particular, without expressing any judgment on the question whether the land-revenue is a rent or tax, they advise that the process of revising the land revenue assessment ought to be brought under closer regulation by statute as soon as possible. At present this statutory basis for charging revenue on land varies in different provinces; but in some at least the pitch of assessment is entirely at the discretion of the Executive Government. No branch of the administration is regulated with greater elaboration or care; but the people who are most affected have no voice in the shaping of the system, and the rules are often obscure and imperfectly understood by those who pay the revenue. The Committee are of opinion that the time has come to embody in the law the main principles by which the land revenue is determined, the method of valuation, the pitch of assessment, the periods of revision, the graduation of enhancements, and the other chief processes which touch the well-being of the revenue-payers. The subject is one which probably would not be transferred to Ministers until the electorate included a satisfactory representation of the several interests, those of the tenants as well as of the landlords. And the system should be established on a clear statutory basis before this change take place."

Accordingly land-revenue has been made a

reserved subject, and a Bill dealing with its main principles has to be reserved for the consideration of of the Governor-General.

Bills having the object of placing the land revenue administration on a statutory basis have been introduced in some provinces and the whole question is in a transitional stage.

Administration in the Bombay Presidency :—The main principles of the Ryatwari Settlement were laid down in the Joint Report of Messrs. Wingate and Goldsmith. The individual holdings are carefully surveyed, measured, and mapped, and their comparative fertility ascertained with reference to soil, rainfall &c. The assessment is made upon the valuation thus reached.

The cadastral (*i.e.* field-to-field) record made by the Survey Department was originally made for fiscal purposes *i.e.* to find out from whom the assessment was due and what that assessment was. But the record could be made useful for the purposes of general administration also and, therefore, from 1901 it has been expanded into a *Record of Rights.* All kinds of rights and claims with reference to land are required to be registered in this Record to which a legal value has been given. The Record is kept accurate and up-to-date by a supplementary register called the Mutation Register.

The usual term of settlement is thirty years in the Presidency and twenty years in Sind. At the conclusion of the term the assessment is liable to revision. On account of the methods adopted by the Survey Department at the time of the first settlement, revision operations have been simplified and rendered less costly. The change of assessment can be decided for a whole tract on a review of its economic condition

and revenue history without resorting to enquiries into the circumstances of individual holdings. Improvements in the land made at the expense of the culivator are not to be taken into account at the time of revision.

An important feature of land revenue in the Presidency is the regular system of suspensions and remissions of land revenue when the crops fall below a certain standard or when the water supply on the irrigated lands fails. The Collector has been authorized to suspend revenue without enquiry into the circumstances of each individual whenever there is wide-spread failure or destruction of crops in a tract. Repeated distress is relieved by a remission of the revenue. By this means a certain amount of elasticity has been introduced in the collection of land-revenue.

(121) III—ECONOMIC DEVELOPMENT

Industrial—In a country like India the State must take a substantial part in the economic development of the country. A separate Department in the Government of India has been labouring for the industrial and commercial progress of the country ever since the days of Lord Curzon. In 1921 the Department was reconstituted as the Department of Industries and Labour.

But it will be in the Provinces that the work of industrial development must begin, much more so as this is now a Provincial Transferred Subject under the control of Ministers. It cannot be said that the achievements of the Industries Department in the Bombay Presidency have been substantial or encouraging.

Agricultural—Agriculture is the main industry of the people and the chief item of revenue in the budget of a province. There is an Imperial Department of

Agriculture and Provincial Departments for the improvement of this industry, and their activities are of various kinds. The most important is the provision of improved varieties of existing crops *e.g.* cotton, rice, wheat, sugarcane etc. Similarly the checking of pests and blights, introduction of improved implements and machinery, improvement in live stock, the application of scientific principles to cultivation and the spread of such knowledge among the cultivators—these are other directions in which the Departments can do valuable work.

Irrigation—In India agriculture depends to a great extent upon artificial irrigation of the soil. This is due to the character of Indian rainfall. It is most unequally distributed over the country. Nor is the rainfall uniformly spread throughout the rainy season. It may begin early or late and end abruptly, and there may be long intervals in which no rain falls, and the the crops wither. There is also the danger of an absolute scarcity of rain, or over-abundance. The Indian Irrigation Commission which sat from 1901 to 1903 came to the conclusion that all those tracts where the annual average rainfall was less than 50 inches were precarious from the point of view of agriculture. This area includes the whole of the Punjab and the North-West Frontier Province, the United Provinces except the sub-montane districts, Sind, a large portion of Bihar, most of Madras, most of the Bombay Presidency except a strip along the coast, portions of the Central Provinces and a small tract in Burma.

Irrigation of a simple form *e.g.* wells, tanks, has been practised in India from ancient times; and important canals were constructed by the Hindu Kings in the South of India and by the Moghuls in the

North. Irrigation works in the British regime consist mostly of canals of which there are two classes, according as they draw their supplies of water from perennial rivers or from artificial reservoirs. The former are mainly found in connection with rivers rising in the Himalayas, the snow upon which acts as in inexhaustible source of supply during the dry months of the year. The latter are principally associated with the rivers rising in the Peninsula proper, where no such natural storage is available. The artificial reservoirs are often of great dimensions and constitute stupendous works of engineering.

The canals which rely solely upon the natural flow of rivers for their supplies may be further divided into two main types—perennial canals and inundation canals. The former are provided with some arrangement in the vicinity of their heads, usually in the form of an obstruction across the bed of the present stream, by means of which they are enabled to obtain their supplies irrespective of the level of the water in the river. The water is, by means of their obstruction, pounded up to the height required in the canal. The supplies of the inundation canals depend upon the water-level in the river. The most important inundation canals are in Sind; indeed upon them depends the whole irrigation of the Province; but they also exist in the Punjab.

Before the Reforms, Irrigation works were classified as Productive, Protective, or Minor according to the source of funds with which they were constructed. Productive works were built out of borrowed capital and were expected to pay, within ten years of their completion, for their working expenses and interest on the initial outlay. Of course many works failed to

pay their own way and they were then called Failed Productive Works. Protective Works were constructed mainly for the protection of famine-stricken lands, and were built out of the annual grant for Famine Relief and Insurance. They were never expected to be remunerative. Works which were neither Productive nor Protective were classed as Minor Works and were built out of current revenue.

This principle of classification has been abolished since the Reforms and works are now classified as productive or unproductive. Irrigation Works have also become a provincial subject under the Reforms.

Administration in Bombay Presidency:—Irrigation Works form part of the activity of the Public Works Department which was constituted in 1854. The other function of the Department is the construction and maintenance of Roads and Buildings.

Irrigation Works occupy an important place in our Presidency on account of precarious or scanty rainfall over a wide area. In Sind the works are mostly Inundation canals of which the Indus Right Bank System and the Indus Left Bank System are the most important. The Sukkur Barrage, which has been now commenced, will ensure a sufficient amount of water to feed the Inundations canals that take off from the Indus.

In the Deccan Division we have canals that are fed from artificial reservoirs. The most important works are the Nira Left Bank Canal, the Mutha Canal, the Godaveri Canals, and the projected Nira Right Bank Canal, and the Pravara Canals.

The Co-operative Movement—The greatest obstacle in the way of improving the condition of the Indian peasant is his indebtedness. He has alienated

or mortgated his land to the money-lender and, therefore, can not claim any share in the profit of cultivation. He would be put on the right road to prosperity if he could be provided with money at reasonable rates of interest whenever he wants it for purposes of cultivation or improvement. His need for money becomes all the more pressing whenever his small savings (if he have any) are carried off in times of famine or other causes of distress. The provision of cheap capital is the *sine qua non* of the improvement of agriculture in India. In Western countries like England, Germany, and Italy the provision of Cooperative credit to rural population—and to the urban population—has proved the greatest solvent to their economic and social dfficulties, and experiments in that direction were made in India about the end of the last century. In 1904 was passed the Co-operative Credit Societies Act. It was specially directed to the provision of credit to the urban and rural population. The duties of the registration, audit, and liquidation of societies were devolved upon a new official called the Registrar, one such official being appointed in each province.

From those small beginnings in 1904 the movement of Co-operation has spread far and wide, and every day its scope and methods are expanding. This extension of its scope was rendered possible by the Act of 1912, called the Co-operative Societies Act. The movement is not confined to the provision of credit, but ramifies into all kinds of economic activities of the rural and urban population where the principle of co-operation is known to have great advantages.

At the end of the year 1922-23 there were about 56,136 Societies throughout the country. Their

membership amounted to 2·1 millions and working capital 3553 lacs of rupees.

Famine Relief—A grave danger that periodically threatens Indian population is the outbreak of famines. The principles upon which relief should be administered to the distressed population have been arrived at after long experience and careful enquiries. The First Famine Commission was appointed in 1866 under Sir George Campbell to investigate into the great Orissa Famine of that year. The Second Commission was appointed under General Strachey to inquire into the methods of relief adopted in the famines of 1876—78. This Commission recognized to the full the obligation imposed on the State to offer to the necessitous the means of relief in times of famine. But it was the cardinal principle of their policy that this relief should be so administered as not to check the growth of thrift and self-reliance among the people, or to impair the structure of society which, resting as it does in India upon the moral obligation of mutual assistance, is admirably adapted for common effort against a common misfortune.

The Commission also suggested various measures of a protective and preventive character which were afterwards embodied in Provincial Famine Codes. Another great famine occurred towards the end of the century and the Third Commission was appointed under Sir A. P. Macdonell in 1900 and the present policy of Famine Relief is largely based upon the recommendations of this Commission. They may be summarised as follows :—

In the first place the Commission emphasize the importance of always keeping ready certain standing preparations against the outbreak of famine *e.g.* (1) an

efficient system of intelligence regarding rainfall, state of crops, level of prices, unemployment etc., (2) a carefully worked-out programme of relief works to be started, and the necessary provision of establishment and tools, implements etc., for that purpose. They rightly point out that the success of famine-relief operations depends, in great measure, upon putting them into operation at the right moment, before the population loses heart or gets out of control. It is not difficult to tell when the danger would come because there are unmistakable signs of its approach *e.g.* the contraction of private charity, indicated by the wandering of paupers; feverish activity in the grain trade; increase of crime etc. When these and other signs leave no doubt that famine is impending, the Local Government should announce its policy of famine relief, arrange to advance money for the construction or repair of wells etc., and set up test-works to ascertain the degree of distress in the locality. The right development of the relief system hinges very greatly on the proper use of test works. The object of test works is not to relieve famine but to test the presence of it, to guage the pressure of distress, and to dicover the time for entering upon substantial measures of relief. The number of people who come to the test works where the conditions as to work, payment etc., should be stringent would be a good indication of the intensity of the distress. When the numbers attending test works increase rapidly and indicate that further relief measures are necessary, the second stage is reached and the full machinery of relief should be brought into play. The test works should be converted into relief works and gratuitous relief should be given to those who are unable

or unwilling to work on the relief works on account of age, sex, social position etc. Instead of starting large relief works in a few centres the Famine Commission was in favour of starting relief works near the villages. This would make the least interference with the normal life of the village population and thus make easy the early resumption of agricultural operations when the period of distress is over. The conduct of relief works and the administration of gratuitous relief have to be modified when the next rainy season is at hand. There is a natural demand for labour on the fields and pressure upon the public works is relaxed. It should be so arranged that the population returns to its normal life without difficulty. Should the rainy-season prove favourable the relief works are gradually shut down and gratuitous relief contracted.

So far about the relief of the famine-stricken population. But the cattle suffer no less severely from famine and their mortality gives a permanent set-back to agriculture in the locality. Hence it is necessary to stimulate the growth of fodder-crops during the period of distress, or to import fodder from outside, or preserve cattle in camps.

The preservation of the health of the population from various diseases and epidemics during and after the period of distress is an important aspect of Famine Relief Measures. The financial aspect of Famine Relief has been dealt with in the section on Provincial Finance.

We need not say here much regarding the larger considerations on which the success of Famine Relief ultimately depends *viz.* suspension and remission of Land Revenue and the right Land Revenue policy; Agricultural improvement by the

provision of cheap capital encouragement of other industries with a view to relieve pressure upon agriculture etc.

(122) IV—ADMINISTRATION OF JUSTICE, AND POLICE

Judicial Administration—Some account has already been given of the administration of justice in a district in dealing with the Executive and Judicial powers of the Collector-magistrate. At the top of the judicial administration in a province is the High Court consisting of a Chief Justice and a number of Puisne Judges. It has both ordinary and extra-ordinary civil and criminal jurisdiction and exercises original and appellate functions. The Appellate Judges of the High Court also supervise the administration of justice by the subordinate Civil and Criminal Courts in the districts. Ordinary Original Jurisdiction is exercised in matters both Civil and Criminal which arise within the limits of the Presidency Towns, but the High Court may, in Civil cases, remove and itself try any suit brought in any Court under its superintendence and, in Criminal cases, exercise jurisdiction over all persons residing in any place whose Courts are subject to the superintendence of the High Court. In the *mofussil* the administration of Civil justice is entrusted to four grades of Courts—those of District and Assistant Judges, and of classes of officers styled respectively, First and Second Class Subordinate Judges. Their powers have been defined in the Code of Civil Procedure. An appeal from the decision of an Assistant or Subordinate Judge, in cases exceeding Rs. 5,000 in value, and from the decision of the District Judge, in all original suits, lies to the High

Court. From the decisions of the High Court a further appeal may be made to His Majesty in Council (*i.e.* the Privy Council) when the property in dispute is of the amount or value of Rs. 10,000 or upwards, but appeals are also allowed in cases of special importance, or involving grave questions of law.

In the larger towns there are Small Causes Courts with summary powers for the disposal of small cases.

Criminal Courts.—District and Assistant Judges under the title of Sessions Judges and Assistant Sessions Judges exercise Criminal jurisdiction. But the executive district officers, who in addition to their revenue duties are invested with magisterial powers, dispose of original Criminal work to a great extent. There are under the provisions of the Criminal Procedure Code four grades of Criminal Courts—those of the Magistrates of the Third, Second, and First Class and the Courts of Sessions. Under the last title three grades of officers are included, the Sessions Judge who is the District Judge, the Additional Sessions Judge who is the Assistant Judge with full powers, and the Assistant Sessions Judge who is the Assistant Judge.

The Sessions Judge is empowered to try any offence, and to pass upon any offender any sentence authorized by law subject, in the case of a capital sentence, to confirmation by the High Court.

An appeal against sentences of transportation for any term, or imprisonment for more than four years, passed by an Assistant Sessions Judge lies to the High Court. Against all other sentences an appeal lies to the Court of Sessions, while in no case can the

sentence of an Assistant Sessions Judge exceed imprisonment or transporation for seven years.

Police—In the Bombay Presidency the Police force consists of two distinct bodies, the Stipendiary and the Village Police. The stipendiary force is divided into grades of Constables, Head Constables, Sub-Inspectors, Inspectors, Deputy Superintendents. In the mofussil the Sub-Inspector has charge of the Police Station; the Inspector has charge of a circle comprising several Police Stations or a large town; an Assistant Superintendent of Police or a Deputy Superintendent has charge of a Sub-Division of a District.

For the purpose of control in the Presidency proper the whole Force is under the Inspector-General of Police, who is assisted by three Deputy Inspectors-General of Police. Certain administration powers have, however, been reserved to the Commissioners of Divisions.

The executive management of the police in each district is vested, under the general direction of the Magistrate of the District, in a Superintendent of Police, who is assisted by a Deputy Superintendent, and has, in some cases, one or more Assistant Superintendents under him.

The Taluka, which is the sub-division of a district for revenue purposes, is usually divided into two or more Police Stations, and the Sub-Inspector in charge of a Police Station is quite independent of the Mamlatdar in his executive control of the police under him and answerable to the Superintendent or Deputy Superintendent. Under a Police Station there are one or more outposts according to the size, criminality or local conditions of the area forming the

station. These outposts are manned from the regular police force allotted to the Police Station under which they are situated. Outposts are in charge of head constables and head constables and constables have a number of villages assigned to them for patrol purposes.

There is a special and separate organization of police for the railways. There is another organization called the Criminal Investigation Department for the detection of widespread or serious crime. The Police force in the Bombay City is under a Commissionor of Police. The sanctioned strength of the Police in the Bombay Presidency, including Sind and Railway, was 1059 officers and 21,871 men, the total cost being 1,25,67 thousand rupees. The average cost per policeman was Rs. 526-3-6. The percentage of literate officers and men was 58·81.

Village Police:—Under the provisions of Bombay Act VIII of 1867 the village police are, subject to the control and direction of the Commissioner, administered by the different District Magistrates. It is their special duty to prevent crime and public nuisances and to detect and arrest offenders within village limits. They are not stipendiary, but receive perquisites from the inhabitants of the village or rent-free lands or small sums of money from Government. In each village the village police are under the charge of the police patil, who is often, but by no means always, the person performing the duties of revenue patil. His duties as police patil are to furnish the Magistrate of the District with any returns or information called for, and to keep him constantly informed as to the state of crime and all matters connected with village police and the health and general condition of the community in his

village. Under a form of administration which preserves the village as the unit of collection in revenue matters the institution of village police naturally holds an important place.

Separation of Judicial and Executive Functions:—Having described the administration of Justice and the Police organization we now return to the old controversy as to the separation of the judicial and executive functions.

The history of this controversy has been already traced up to the year 1870 in an earlier section. We there found how the combination was continued, chiefly owing to the reactionary view of the then Law Member, Sir James Stephen. He declared that "the maintenance of the position of the district officers is essential to the maintenance of British Rule in India and that any diminution in their influence and authority over the natives would be dearly purchased even by an improvement in the administration of justice."

Such a strong statement of the case was bound to give a fresh impetus to the agitation against combination of functions. It was led by two Bengalis, Manmohan Ghose and Romesh Chundra Datt, and an influential memorial was submitted to the Secretary of of State in 1899. It led to no immediate results. But when, with the advent of Lord Morley and Lord Minto to the helm of Indian affairs, there was a favourable reaction and the rigour of bureaucracy came to be relaxed, the question of separation was mooted in the Indian Legislative Council in 1908, and the then Home Member Sir Harvey Adamson made on official announcement on the subject.

The main objections urged against separation were two:

(1) That the separation of the executive and judicial functions will involve considerable additional expenditure.

(2) That the District Magistrate can not be deprived of his judicial powers without loss of prestige and influence over the people.

The financial difficulty can not be ignored though it is not insuperable. To the second objection Sir Harvey Adamson made the following reply, which on account of its weight and philosophic insight, bears quotation *in extenso.*

"Those who are opposed to a separation of functions are greatly influenced by the belief that the change would materially weaken the power and position of the District Magistrate and could thus impair the authority of the Government of which he is the chief local representative. The objection that stands out in stronger relief is that prestige will be lowered and authority weakened if the officer who has control of the police and who is responsible for the peace of the district is deprived of control over the Magistracy who try police cases. Let me examine this objection with reference to the varying stage of the progress of a community. Under certain circumstances it is undoubtedly necessary that the executive authorities should themselves be the judicial authorities. The most extreme case is the imposition of martial law in a country that is in open rebellion. Proceeding up the scale we come to conditions which I may illustuate by the experience of Upper Burma for some years after the annexations. Order had not yet been completely restored and violent crime was prevalent. Military law had gone and its place had been taken by Civil law of an

elementary kind. District Magistrates had large powers extending to life and death. The High Court was presided over by the Commissioner, an executive officer. The Criminal law relaxed, and evidence was admitted which under the strict rules of interpretation of a more advanced system would be excluded. All this was rendered absolutely necessary by the conditions of the country. Order would never have been restored if the niceties of law as expounded by lawyers had been listened to, or if the police had not gone hand in hand with the judiciary. Proceeding further up the scale we come to the stage of a simple people, generally peaceful, but having in their character elements capable of reproducing disorder, who have been accustomed to see all the functions of Government united in one head, and who neither know nor desire any other form of administration. The law has become intricate and advanced, and it is applied by the Courts with all the strictness that is necessary in order to guard the liberties of the people. Examples would be easy to find in India of the present day. So far I have covered the stages in which a combination of magisterial and police duties is either necessary or is at least not inexpedient. In these stages the prestige and authority of the Executive are strengthened by a combination of functions. I now come to the case of a people among whom very different ideas prevail. The educated have become imbued with Western ideals. Legal knowledge has vastly increased. The lawyers are of the people, and they have derived their inspiration from Western Law. Anything short of the most impartial judicial administration is contrary to the principles which they have learnt. I must say that I have much sympathy with Indian lawyers who

devote their energies to making the administration of Indian law as good theoretically and practically as the administration of English law. Well, what happens when a province has reached this stage and still retains a combination of magisterial and police functions? The inevitable result is that the people are inspired with a distrust of the impartiality of the judiciary. You need not tell me that the feeling is confined to a few educated men and lawyers and is not shared by the common people. I grant that if the people of such a province were asked one by one whether they objected to a combintion of functions, ninety per cent of them would be surprised at the question and would add that they had nothing to complain of. But so soon as one of these people comes into contact with the law his opinions are merged in his lawyer's. If his case be other than purely private and ordinary, if for instance he fears that the police have a spite against him or that the District Magistrate as a guradian of the peace of the district has an interest adverse to him, he is immediately imbued by his surroundings with the idea that he can not expect perfect and impartial justice from the Magistrate. It thus follows that in such a province the combination of functions must inspire a distrust of the magistracy in all who have business with the Courts. Can it be said that under such circumstances the combination tends to enhancement of the prestige and authority of the Executive? Can any Government be strong whose administration is not entirely above suspicion? The answer must be in the negative. The combination of functions in such a condition of society is a direct weakening of the prestige of the Executive".

This official pronouncement has taken the sting

out of the controversy, and it is now only a question of time and finance to effect the separation of functions. Already the combination has been relaxed in some provinces.

It no longer exists in the Presidency Towns. In Madras the separation has been effected in the lower grades; in Bengal it now obtains in the provincial service and special deputies are being appointed to try certain land and other cases; in Burma also there is similar separation and differentiation.

One minor argument in favour of the union of functions is that thereby the members of the Civil Service get a thorough training in administration, and after a period of probation, each selects the judicial or the executive line according to the bend of his mind, and that if a separation of functions was effected from the first and rigidly maintained, it would be difficult to get Europeans of the proper legal qualifications to fill the posts of Judges; and the quota of High Court Judges recruited from the Civil Service would to that extent suffer in quality.

This argument had some force when there was difficulty in getting Indians to fill the judicial posts. But it is not so now. And there are positive disadvantages in making the members of the Civil Service shift from the judicial to the executive side and *vice verse*. The District Judge—trained in the executive field during his earlier years and often found unsatisfactory for that kind of work—does not possess those legal attainments or that judicial frame of mind and detachment of view which are essential for an impartial administration of justice. Further, these

Judges obtain their promotion from the Executive, and as Chailley observes, "cannot feel themselves entirely free in matters in which the interests of the Government are concerned." Thus it has been remarked that promotions to the Bench from the Civilians are made, in some cases at least, less on account of their merit, than for their supposed suppleness or complaisance."

The interest of this controversy has now been transferred from the Indian Lagislative Council to the Provincial Councils. When this qustion was raised in the Reformed Central Legislature, it was pointed out, that it affected mainly the administration of justice and of land revenue and both were provincial subjects. The Government of India, however, were in full sympathy with the case for separation and undertook to offer every help by way of undertaking the necessary legislation, to any province that may proceed to make the experiment.

(123) IV—LOCAL SELF-GOVERNMENT

Resolution of Lord Chelmsford :—The history of this subject was traced up to the Announcement of 1917 in an earlier section. After that Announcement Lord Chelmsford explained that local Self-Government was one of the means by which advance was to be made towards the progressive realization of Responsible Government in India. Accordingly in May 1918 his Government issued a comprehensive Resolution the underlying principles of which may be summarised thus : in the forefront comes the main object of local Self-Government: the training of the people in the management of their own affairs. For this purpose

the local bodies should be as representative as possible, and they should be freed a great deal from outside control. The control of Government was hitherto exercised from within as well as from without and it was mainly in the substitution of outside for inside control and the reduction of outside control to the limit, compatible with safety that progress was to be achieved. Internal control is capable of relaxation by a greater use of election both of Members and Chairmen of Boards. External control was relaxed by removing unnecessary restrictions in connection with taxation, budgets, the sanction of works etc.

The Resolution recommended that as a general principle there should be a substantial elective majority both in Municipalities and Rural Boards, and suggested that the proportion of nominated members in a Board should not ordinarily exceed one-fourth. The franchise for election also should be low. The necessity for this provision was revealed by the fact that the average electorate in Municipalities in India seemed to represent only 6 p.c. of the population, and the electorate in the District Boards only 0·6 p.c. The end to be kept in view before a full elective system, analogous to the one obtaining in the West can be achieved is that some 16 p. c. of the population should be represented in the electorate. Similarly the nominated chairman should make room for elected chairman, both in Municipalities and District Boards.

So far about the reduction of the internal control over Local Bodies. External control was to be reduced by giving them greater latitude in taxation and borrowing, and greater freedom with regard to the Budget.

Recent Developments.—In 1919-20 there were 739 Municipalities in British India with something under 18 million people resident within their limits. The rest of the population *i.e.*, about 90 p.c. of the total is still rural. This disproportion of urban and rural population ought to show how vitally important it is that Local Self-Government should get a deep rooting in the villages.

In Bombay.—The constitution of both urban and rural bodies has been greatly modified—either by executive action or by new pieces of legislation. The Municipal Corporation of Bombay has undergone a radical change. Its strength has been increased to 106, of whom 72 are elected and 10 are co-opted; the strength of the Standing Committee has been increased to 16; and the franchise for election has been fixed on the uniform basis of monthly payment of Rs. 10 or more as house-rent.

Municipalities:—A Bill has been introduced in the Council to remove an important drawback in the administration of Municipalities. The idea is to approximate the larger Municipalities to the methods of business that obtain in the Municipality of Bombay. The Bombay District Municipal Act, 1901, applies to all municipalites in the Presidency, except the Municipal Corporation of the City of Bombay and it has been felt each year with increasing force, that the same Act cannot adequately provide for the needs of the larger and the smaller municipalities.

Under the existing Act, save where a Chief Officer or a Municipal Commissioner has been appointed, the executive administration centres in the managing and

other committees. This may still be possible in the smaller Municipalities; in these the president may still be able to supervise and control the municipal staff, and the Municipal Committee to perform the functions of an executive body. But in the larger cities the Municipality can do little more than determine questions of policy : committees can exercise only a general control over the muncipal staff. The executive powers must be exercised largely by the permanent staff. It is proposed to give to the larger Municipalities an executive officer called 'Chief Officer.' He is to be appointed by the Muncipality but he can only be removed from office by an adverse vote of three-fourths of the whole body of councillors. A similar change is to be introduced in the relation of the various committees of the Municipal Body. The main committee, to be called the 'Standing Committee,' will have powers analogous to those of the Standing Committee of the Bombay Corporation. While larger questions of policy are decided by the Municipality questions of lesser interest are disposed of by this Committee which also exercise a general control over the executive. It is also proposed to adopt the franchise of the Legislative Council as the main basis of the Municipal franchise and to reduce the maximum number of nominated members to one-fifth.

Again in March 1923 was passed the Bombay Local Boards Act for the reconstitution of rural bodies. There will be a Board for Local Self-Government in each Taluka of the District, and one for the District as a whole. There will be elective members and "nominated members" in the Board—but the number of elective members is to be three-fourths of

the whole Board, and not more than one-half of the nominated members can be salaried servants of the Government. The franchise for voting to the Taluka Board is the payment of land revenue of not less than Rs. 8; and that for the District Board, of Rs. 32, except in the three districts of Upper Sind Frontier, Panch Mahals and Ratnagiri, where it is only Rs. 16. Both in Taluka and District Boards the Mahomedans have been given separate representation. For purpose of election to the District Local Board each Taluka forms a separate general constituency; and for Taluka Boards, the Villages have been grouped into constituencies. Detailed schedules have been published in the Bombay Government Gazette giving the proportion of elected and nominated members, of general and Mahomedan members etc. The President of the Board will be elected. The District Board must hold a meeting at least once in every three months. Every Local Board is to have a Standing Committee of between 5 and 7 members and the President is to be the ex-officio Chairman of the Commitee. The Board may appoint other executive Committees for other purposes *e.g.*, Public Health; certain Government officers *e.g*,, the Executive Engineer, the Educational Inspector, the Deputy Diretor of Public Health, and Civil Surgeon have the right of attending meetings of the District Board. Their immediate subordinates can attend meetings of Taluka Local Boards; conversely, the District or Taluka Board may require the presence of any of the above officers at their meetings. The duties of the Boards have been classified as obligatory and discretionary and their general range has been given in an earlier part of this book. Only the District Board can incur expenditure on Education;

the budget of the Taluka Board is subject to the approval of the District Board. The District Board may be authorized to levy a tax mentioned in Schedule II § 80 A (3) (*a*) of the Government of India Act.

Encouragement to Village Panchayats.—Attention has repeatedly drawn to the decadence of Village Communities in India under the British Rule. Efforts are being made to revive the Village Panchayats. Local Self-Government would be unreal if the most important unit in Indian Society *viz* the Village is without an efficient organization for that purpose. The existing Panchayats are not thriving because they are in an experimental stage, have inadequate powers and meagre funds. A, Committee has been recently appointed (i) To consider generally the present position of Village Panchayats, and (ii) To devise means to improve the working of the Village Panchayat system, and should these necessitate an extension of the financial resources of Village Panchayats to make concrete proposals for increasing the sources of income.

Other Tendencies.—While the encouragement of Local Boards and Panchayats is on the right lines, we cannot approve of other tendencies in Local Self-Government that became evident in many places ever since the subject was transferred to Ministers. Even though the Non-Co-operators boycotted the Councils, they in many places 'captured' the Municipalities. In fact at one time they seriously proposed to put into operation their whole programme of hand-spinning and weaving, national education, boycott of foreign goods &c.,—through these bodies. Their attempts brought them

in conflict with the Government, and in some cases the Municipalities were temporarily suspended or had to pay fines. There is no doubt, however, that in spite of these excesses, on the whole interest in local matters has increased enormously during recent years. The elections are keenly fought, there are more meetings of the Municipal Committees, and more party-organization than was ever the case before.

The second tendency is that of Communal division, upon which Prof. Rushbrook Williams makes the following remarks :—A tendency has been noticed in Municipal and District Commitees towards the formation of Hindu Muslim cliques which display mistrust of each other and waste time in mutual recrimination. The constitution into Municipalities and District Boards of regular parties with a definite policy is of course all to the good; but when these parties are merely communal in their out-look they tend rather to the obstruction than to the transaction of business. Moreover lines of cleavage which are not based on matters directly affecting the prosperity of the area administered, but depend solely upon communal or sectarian differences, neither stimulate an interest in the task in hand nor foster that pride in the efficiency of Municipal institutions which is essential to the growth of Local Self-Government."*

That the interest in local affairs whether the result of a healthy realization of the importance of the subject or a passing phase of political or communal conflict, is not able to achieve striking results is due to the financial stringency of the Local Bodies. The resources of the Local bodies are insignificant

* India in 1922-1923.

compared with their functions and any theoretical increase in their powers of taxation is useless unless there is a corresponding increase in the capacity to bear the taxes. Programmes of Compulsory Education, of construction of roads, &c., and the provision of adequate sanitary arrangements are being held up because of the shortage of funds.

(124) V—EDUCATION

Introduction.—Various considerations make education one of the most important subjects of Indian Administration. As in other countries, it is, in India, a condition of the material and moral progress of the people. It is the most powerful solvent of ignorance and superstition, of narrow prejudices and practices, and of castes and communal rigidities, which make India a backward country. It is the basis of all social reform and the *sine qua non* of an active participation in Responsible Government. The policy of Government with regard to education has not always been wise or liberal; private agencies and funds—Indian and European—have been mainly applied to work out that policy. The result is that education has not spread equally or satisfactorily in all directions. It has created quite a crop of social, political and educational problems that have constantly exercised the mind of Government and the public ever since the days of Lord Curzon and the whole educational field has recently been examined by the Calcutta University Commission.

History of the Educational Policy:—The History naturally falls into the following six periods:—

(1) Educational experimets up to 1835.

(2) From the Educational Minute of Lord Macaulay (1833), to the Educational Despatch of Sir Charles Wood (1854).

(3) From this Despatch to the Indian Educational Commission of 1882.

(4) From this Commission to the Indian Universities Commission of 1904.

(5) From 1905 to the Calcutta University Commission of 1917-1918.

(6) Education under the Reforms.

An account has already been given in an earlier Chapter of the beginnings of Education up to 1854. The Despatch of 1854 laid the foundation of the Educational System of India, and as such it deserves careful study.

(3) *Analysis of the Despatch* :—It defined the object of education that was being extended in India to be "the diffusion of the improved arts, sciences, philosophy and literature of Europe, in short of European knowledge." The vernaculars were to be used as the *media* of instruction along with English. "It is neither our aim nor desire to substitute the English language for the vernacular dialects of the country." It recommended the creation of a Department of Public Instruction under a Director as the proper machinery for spreading education; also the establishment of "Universities" which may encourage education by the conferring of degrees, on the model of the London University. But the "Universities were not so much to be in themselves places of instruction as to test the value of the education obtained elsewhere." Schools to be opened in every district in India, they

were to provide opportunities for the acquisition of such an improved education as would make those who would possess it more useful members of society in every condition of life. Government was to encourage private effort by grants-in-aid. The remaining part of the Despatch deals with questions like scholarships, training of teachers, professional and industrial education, female education, Mahomedan education; etc.

As a result of the establishment of Universities and the Departments of Public Instruction there was an increase of education after 1854. Private Schools began to multiply to cater for the needs of the growing numbers, and as such schools could be made self-supporting on the proceeds of the fees, they could do without the grant-in-aid and thus be independent of the control of the D. P. I. The Department in fact was losing control over these schools, as the later prepared candidates for the Matriculation examination of the University, and looked to the University for regulation of study, standard of attainment etc. Not much attention was paid to the subject of primary education, either by Government or by the people. The Universities continued to be merely examining bodies.

(4) *Education Commission of* 1882:—In 1882 the Government of Lord Ripon appointed the Education Commission under Sir William Hunter to review the work during the preceding thirty years. The voice of the first generation of educated Indians was being felt in the country and Lord Ripon had also taken the first steps in Local Self-Government. This Commission did not initiate any new departure of policy. It deplored the neglect of primary education, recommended its being

33

delegated to the newly-created Municipalities and District Boards, and desired the State to undertake large expenditure for its encouragement. As regards secondary education, the Commission was satisfied with the progress made by private effort in this field. It suggested that Government should not do more than maintain one model High School in each district, and control and help private schools by means of grant-in-aid and inspection. The problems of University education did not come within the purview of this Commission.

(5) *Lord Curzon's Educational Policy:*—Twenty years were allowed to elapse before the whole educational field was surveyed in the regime of Lord Curzon. During those twenty years primary education remained almost stationary, for the local Authorities to which it was entrusted had very limited resources and though a substantial portion of them was applied to primary education and though it was supplemented by grants from Government the results were meagre. On the other hand every thing conspired to increase the number of those who went in for secondary education, and there was a large increase in the number of Middle Schools and High Schools. Though the Schools prepared boys for the Matriculation, the University had no machinery by which to inspect and control them. Nor had it any real control over the Colleges that were affiliated to it. The constitution of the Universities also had revealed defects of its own. Apart from these and other defects incidential to the educational system, questions began to be asked as to whether the imparting of Western Education to Indians had been an unmixed blessing to them. Pqint was given such questions by the

supposed connection between education and political agitation and possibly between education and seditious crime. Lord Curzon put this last suspicion in the characteristic words of Erasmus. When this great Divine was reproached with having laid the egg from which came forth the Reformation, "YES" he replied; "But I laid a hen's egg and Luther has hatched a fighting-cock." The Hon. Mr. Thomas Raleigh thus expressed the result of higher education upon Indians: "In point of fact it has been both, but much more I believe a blessing than a curse. We note every day the disturbing effects of a new culture imposed upon learners who are not always prepared to receive it; but still it is a great achievement to have opened the mind of the East to the discoveries of Western Science and the spirit of English Law. To the Schools and Colleges under our administration we owe some of the best of our fellow-workers—Assistant Judges, useful officials, and teachers who pass on to others the benefit which they have received. To them also we owe the discontented B.A. who has carried away from his college a scant modicum of learning and an entirely exaggerated estimate of his own capacities, and the great army of failed candidates who beset all the avenues to subordinate employment."

Lord Curzon threw himself with a burning zeal into the subject of educational reform. He began by calling a conference of European educational experts at Simla in September 1901. He appointed the Universities Commission of 1902 under Sir Thomas Raleigh. As a result of the labours of this Commission the Indian Universities Act of 1904 was passed, and a comprehensive Resolution on the

educational policy of Government was issued in the same year. A second conference was called at Simla the next year to review the progress made during the previous few years.

University Reform.—The defects in higher education that were pointed out by the Commission were real though many of the measures adopted by Lord Curzon roused the bitterest opposition of educated Indians. The constitution of the Universities had not been changed ever since their establishment fifty years before. They had each a Senate which had become in every case a very large body consisting of Fellows appointed for life by the Chancellor, many of whom had no direct connection with education; the Senates had therefore become quite unfit to discharge their functions. The Universities were again merely examining bodies as the London University was at the time when they were established. But the London University had undergone a radical change as a result of the Royal Commission that was appointed in 1898 to inquire into its state, and it was converted into a Teaching University. There were four features of the London changes whose influence is directly perceptible in the discussion of the Commission of 1902; that every University ought to be a Teaching University; no college should be allowed full privileges unless it was thoroughly well-staffed and equipped; that teachers must always be intimately associated with the work of the University and the supreme governing body of the University—namely the Senate—should not be too large.

The recommendations of the Commission of 1902-3 fall into five main categories.

(1) The reorganization of University Government;

the University Senates were reduced in each case to the uniform strength of 100 members, of whom 80 were to be nominated by Government, 10 were to be elected by the registered graduates of the University, and 10 by the Faculties. The latter were special Committees of the Senate for Arts, Science, Medicines, Law and Engineering and they were given power of "co-opting" outsiders. The "executive" of the Senate was the Syndicate which was to consist of the Vice-Chancellor and the Director of Public Instruction as *ex-officio* members, and 15 members elected as follows: by the Faculty of Arts 4; of Science 3; of Medicines 2; law 2; by the Senate as a whole 4. The Vice-Chancellor was to be a nominee of Government.

The Regulations made by the Senate were required to get the sanction of Government; similarly the affiliation and disaffiliation of colleges, and the appointment of University professors, teachers, and readers had also to be sanctioned by Government.

(2) A second feature of the new system was the introduction of stricter control over schools and colleges. Every private college was required to have a Governing Body consisting partly of teachers and partly of outsiders; its income and expenditure were to be published as of a public institution; the rules of affiliation were made stricter; and the college was submitted to periodical inspection by the University.

(3) The conditions under which students lived and worked in large towns like Calcutta and Bombay were wretched. There was no supervision over them, and, in the absence of hostel accommodation, they were exposed to all the evil influences of town-life, and in addition, some of them at any rate could not resist the temptation of actively participating in politics which

were running high ever since the advent of Lord Curzon. The Colleges were now required to provide residence for a large proportion of their students as a condition of affiliation.

(4) The main function of the Universities continued to be that of prescribing books, and regulating studies, and of holding examinations. Almost the whole of the teaching was done in the "affiliated" colleges. The teaching function of some of the Universities was confined to post-graduate work, the appointment of University professors, the award of scholarships for research etc.

(5) Substantial changes were made in curricula of studies and the methods of examination by means of Regulations.

Criticism—That the Universities Act of 1904 enormously increased the control of Government over University matters—both direct and indirect—cannot be gainsaid. The University was virtually turned into a Department of the State. The power of nominating 80 out of one hundred members of the Senate and of renewing the nominations every five years was very great. Both in regard to their composition and powers the Senates had to depend largely upon Government. The late Mr. Gokhale did his utmost to oppose the retrograde provisions in the Act of 1904. He complained that to revolutionize the constitution of the Universities was reforming the system of education at the wrong end. The remedies he suggested were the application of larger funds for the development of the colleges and the employment of the best men from England as professors. "The greatest work of Western Education in the present state of India is not so much the encouragement of learning as the liberation of the Indian mind from the

thraldom of old-world ideas, and the assimilation of all that is highest and best in the life, thought, and character of the West. For this purpose not only highest but all Western education is useful. I think Englishmen should have more faith in the influence of their History and their Literature. And whenever they are inclined to feel annoyed at the utterances of a discontented B.A. let them realize that he is but an accident of the present period of transition in India, and that they should no more lose faith in the results of Western education on this account than should my countrymen question the ultimate aim of British Rule in this land because not every Englishman who comes out to India realizes the true character of England's mission here."*

(6) *Calcutta University Commission.*—During all this time the forces that were making for an increased demand for secondary and higher education were gathering strength. This kind of education had become the only avenue to a respectable position in life to the middle classes; again the immense mass of the backward communities was gradually perceiving the necessity of this education; and finally, political and social problems required a spread of higher education for their proper solution. Thus the question of education always remained a pressing problem. The evil effects of "overdoing" higher education of a purely literary character, of examinations, of cram, of rapid increase of incompetent schools and colleges, and of the growth of the University beyond manageable proportions became particularly apparent in Bengal. The University had little control over the education imparted in Schools and no effective control over its

* Gokhale Speeches: 235.

own affiliated Colleges. Lord Chelmsford, therefore, appointed a Commission under Dr. Michael Sadler to inquire into the state of education in Bengal. Sir Ashutosh Mukerji—a man of rare intellectual powers and wonderful attainments in the fields of Oriental scholarship, Mathematics, Law and Philosophy—who had made the Calcutta University "the largest University in the world"—was a member of this Commission. His recent death is an irreparable loss not only to Bengal but to the whole of India.

The Roport of the Commission is a landmark in the history of Education in India. Though its criticisms and recommendations were directed to the special problems of Bengal they were found to be of a much wider application, and throughout India University education is undergoing changes that were suggested by that Commission.

The Senate of the Bombay University for instance appointed a small Committee to consider that Report; and the Bombay Government appointed a large Committee to go into the question of the reform of the Bombay University, whose Report is long overdue.

The Commission distinguished between two types of Universities—the affiliating and the teaching. The first was the only type that had been adopted in India. But the affiliated Colleges were scattered over a wide area and separated from each other and the University, in many cases, by hundreds of miles. The tie between them naturally was very slender. Each college was an unit by itself, and even between colleges in the same city there was no inter-relation. Naturally there was monotony and multiplication of teaching, and the entire absence of inter-collegiate co-operation kept the colleges at a lower level than if they had pooled their

teaching resources together. Many of the "second grade" and even "first grade" Colleges in the mofussil indeed were little better than high schools.

In the other type of the University the Colleges themselves form the University. Lord Curzon described the Universities of Oxford and Cambridge in the following eulogistic terms. "They are incorporated institutions composed of Colleges which constitute and are embodied in the corporate whole. The two together make the University; they twain are one flesh. Each College has its own students and fellows and tutors and its own local habitation, often hallowed by romance and venerable with age. The groups of Colleges combine for purposes of lecturing. The University supervises and controls all by its examinations, its professorial lectures, its central government, and by its administration of corporate funds. Above all, it sways the life of the College undergraduates, by the memory of its past, by the influence of its public buildings, by its common institutions, and by the cosmopolitan field of interest and emulation which it offers."*

That the system of affiliation had reached the breaking-point is clear from the following figures which show the number of students and of colleges "affiliated" to one or the other University in the year 1917.

University	Colleges	Students
Calcutta	58	28,618
Bombay	17	8,001
Madras	53	10,216
Punjab	24	6,558
Allahabad	33	7,807

* Curzon's Speeches: Vol. II, 35.

The movement for establishing new Universities had set in even before the appointment of the Sadler Commission. The demand for a University began to be keenly felt in those provinces which had no university of their own *e. g.* Bihar and Orissa, Burma, etc.; and there was a widespread movement among the Hindus and the Mahomedans to found separate Universities as the embodiment of whatever was best in their culture, at Benares and Aligarh respectively, in North India. This separatist movement received an impetus by the Report of the Calcutta University Commission. "They urged the immediate establishment of the Dacca University, a synthesis of the work of the various colleges situated in Calcutta, the co-ordination of the work of the outside colleges by means of a Mofussil Board, and a complete revision of the constitution of the Calcutta University. Finally, in order to raise the standard of University education in Bengal, they recommended the delegation of all work up to the Intermediate standard, hitherto conducted by the University, to institutions of a new type called "intermediate colleges," which should provide both general and special education under the supervision of a " Board of Secondary and Intermediate Education." To this body, which should contain representatives of Government, the University, the Intermediate Colleges, and the High Schools they suggested that the administration and control of secondary education should be transferred from the University and the Education Department."*

The Patna University, which followed as a natural corollary on the formation of the separate province of Bihar and Orissa in 1912, was established in 1917. It

* Richey: 49.

does not differ greatly in form from the older Universities except in the possession of a wholetime paid Vice-Chancellor. The Dacca University was established in 1920. It is a teaching and residential University and it was the first to adopt the revised form of constitution recommended by the Commission. In place of the Senate and Syndicate of the older Universities, there are three main bodies in the new type of the University.

(*a*) A large Body, called the Court, on which are represented the chief interests of the community either by election or nomination. The functions of the Court are to make statutes and pass recommendations on the financial accounts and the annual report submitted by the Executive Council.

(*b*) The Executive Council in whom the executive authority in regard to finance and University appointments and also all residual powers are vested.

(*c*) The Academic Council who are responsible for the control, general regulation, and maintenance of the standard of instruction, education, and examination within the University. It is to consist almost entirely of University teachers.

The new Universities of Lucknow and Delhi and the reconstituted University of Allahabad closely follow the model of the Dacca University.

The older Universities of Bombay, Madras, and Punjab are in the process of reconstruction. Though the older Universities continue, in the main, to be examining bodies, some of them, particularly the Calcutta University—thanks to the indefatigable energy of the late Sir Ashutosh Mookerji—also do teaching work (*a*) by arranging special series of lectures by eminent Scholars, (*b*) by founding

University chairs, and (c) by the provision of Honours schools or post-graduate classes.

The rapid increase in the number of new Universities is not without possible danger. All the provinces are not on the same footing as regards their general educational progress or financial resources. Further, education is now a Transferred Subject and therefore fully amenable to Provincial Council (though with proper safeguards as to university education.) It is, therefore, necessary that all the Universities—the new and the old—should maintain a high and uniform standard. It would be most unfortunate if in India, as in the United States of America, a degree ceased to possess any intrinsic value, and was dependent for recognition on the status and reputation of the particular University by which it had been conferred.* Lord Reading in his inaugural address to the Conference of representatives of Indian Universities held last year at Simla, properly emphasized the necessity of the preservation of this high standard. It cannot be said that we have more Universities than the needs of the country require—indeed many more are bound to spring into existence in the near future—but the great desideratum is that a high, a very high, standard is maintained by all.

Secondary Education.—It is not proposed to go here into the subject of secondary and primary education, and of other aspects of education. Only a few remarks are offered.

A feature of the Indian High Schools is the uniformity that prevails throughout them, preparing as they do candidates for the Matriculation examina-

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* Richey: II.

tion over them. "Too often the staff, the parents, the public and not infrequently the inspecting staff also gauge the merits of a high school by the percentage of success which it obtains at the final examination. This attitude is not wholly unreasonable. So long as there is little individuality in the character of different schools there is little, except their success in the examinations, to differentiate good schools from bad. Moreover, it is precisely in order that his boy may pass the final examination that the ordinary parent sends him to a High School. Such success in itself possesses a recognised value in the Indian wage market. It also opens the door to the University; and a University career is the aspiration of nearly every High School boy. Nor would this afford grounds for criticism if preparation for the University meant laying the foundation of a good education."* But in India the whole purport of education is narrowed to the passing of an examination.

Now properly speaking the use of a secondary school is to prepare the best of its scholars for the University and the rest for the business of life. This object is better served by having an elastic School Final or School Leaving Certificate Examination which should also serve the purpose of Matriculation. A reform in this direction has been effected in Bihar and Orissa, Madras, Bombay, and the United Provinces. The evil of cramming for examinations would to a large extent be minimised by the use of vernacular as the medium of instruction and this reform also is gaining ground in most provinces. The provision of an adequately trained staff of teachers is a further requirement of sound secondary—as indeed of all—

* Richey : 85-87.

education. To a large extent this depends upon offering adequate salaries to the teachers. Government have opened special schools for training Secondary Teachers and the University has established degrees like L. T or B. T.

Primary Education.—The importance of this subject needs no emphasis at this time of the day. Unless the reproachful ban of illiteracy is removed from the whole population—male and female—India cannot be a truely progressive country. This means the application of enormous sums—public and private—to this object, which cannot be attained within the life of a generation or two. Ever since Gokhale brought forward his Bill for Compulsory Primary Education in 1910, this subject is engaging the attention of Government. Many Provincial Governments tried to expand primary education by chalking out definite schemes of opening so many schools every year, or of spending so much for Primary Education. But expansion based upon this method was not rapid or satisfactory enough, and the next step was the passage of Primary Education Acts in the provinces, authorising the introduction of compulsory education by local option. In Bombay, for instance, an Act permitting the Municipalities to introduce compulsory education within their areas was passed as early as 1918. But few Municipalities came forward to avail themselves of this provision. The final step rendered inevitable by the inauguration of Responsible Government—was the adoption of the principle of Free and Compulsory Primary Education throughout the province. An Act to that effect was passed two years ago by the Bombay Legislative Council, thanks to the labours of the then Minister of Education Dr. R. P. Paranjpye. It applies to the whole

of the Presidency, except the city of Bombay. Every District Board and the larger Municipalities are to constitute a "SCHOOL BOARD" consisting of elected Members. This School Board is to have as its chief executive officer "The School Board Administrative Officer," recommended by the Board and approved by the Government. The District Boards and Municipalities are required to prepare "Schemes" for the introduction of compulsory primary education. As soon as the scheme is sanctioned, Government is to bear "half of the additional recurring and non-recurring annual cost of the scheme in the case of a Municipality and two-thirds of the cost if it is a District Board." The Rules required under this Act have been framed long since but the Act has not yet been vigorously put into operation.

Summary and Criticism.—There are other kinds of education such as professional, vocational, technical etc. and also the education of females, of backward classes, etc. This is not the place to go into any of these problems. They are being discussed and reported upon, though the actual results are far short of the requirements. With regard to them I may say what Lord Curzon said about technical education: "The autumnal leaves are not more thickly strewn in Vallombrosa than the pigeonholes of the Government Departments are filled with Resolutions on this subject."*

* Speeches Vol. II 48.

APPENDIX

GOVERNMENT OF INDIA ACT*

1919

AN ACT TO CONSOLIDATE ENACTMENTS RELATING TO THE GOVERNMENT OF INDIA

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

The Crown

1. Government of India by the Crown.—The territories for the time being vested in His Majesty in India are governed by and in the name of His Majesty the King Emperor of India, and all rights which, if the Government of India Act, 1858 had not been passed, might have been exercised by the East India Company in relation to any territories, may by exercised by and in the name of His Majesty as rights incidental to the Government of India.

The Secretary of State

2. The Secretary of State.—(1) Subject to the provisions of this Act, the Secretary of State has and performs all such or the like powers and duties relating to the government or revenues of India, and has all such or the like powers over all officers appointed or continued under this Act, as, if the Government of

* NOTE :—The Act has been freely abridged for the convenience of ordinary students. For more precise guidance reference should be made to the original Act.

India Act. 1858, had not been passed, might or should have been exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of that Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India, in relation to that government or those revenues and the officers and servants of that Company, and also all such powers as might have been exercised by the said Commissioners alone.

(2) In particular, the Secretary of State may, subject to the provisions of this Act or rules made thereunder, superintend, direct, and control all acts, operations and concerns which relate to the government or revenues of India, and all grants of salaries, gratuities and allowances, and all other payments and charges, out of or on the revenues of India.

(3) The salary of the Secretary of State shall be paid out of moneys provided by Parliament, and the salaries of his under secretaries and any other expenses of his department may be paid out of the revenues of India or out of moneys provided by Parliament.

The Council of India

3. The Council of India.—(1) The Council of India shall consist of such number of members, not less than eight and not more than twelve, as the Secretary of State may determine:

(2) The right of filling any vacancy in the Council shall be vested in the Secretary of State.

(3) Unless at the time of an appointment to fill a vacancy in the Council one-half of the then existing members of the Council are persons who have served or resided in India for at least ten years, and have not last left India more than five years before the date of their appointment, the person appointed to fill the vacancy must be so qualified.

(4) Every member of the Council shall hold office, except as by this section provided, for a term of five years.

(5) The Secretary of State may, for special reasons of public advantage, re-appoint for a further term of five years any member of the Council whose term of office has expired. In any such case the reasons for the re-appointment shall be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament. Save as aforesaid, a member of the Council shall not be capable of re-appointment.

(6) Any member of the Council may, by writing signed by him, resign his office. The instrument of resignation shall be recorded in the minutes of the Council.

(7) Any member of the Council may be removed by His Majesty from his office on an address of both Houses of Parliament.

(8) .There shall be paid to each member of the Council of India the annual salary of twelve hundred pounds.

Provided that any member of the Council who was at the time of his appointment domiciled in India shall receive, in addition to the salary hereby provided, an annual subsistence allowance of six hundred pounds.

Such salaries and allowances may be paid out of the revenues of India or out of moneys provided by Parliament.

4. Seat in Council disqualificaiton for Parliament— No member of the Council of India shall be capable of sitting or voting in Parliament.

5. Duties of Council.—The Council of India shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the government of India and the correspondence with India.

6. Powers of Council,—(1) All powers required to be exercised by the Secretary of State in Council, and all powers of the Council of India, shall be exercised at meetings of the Council at which such number of

members are present as may pe prescribed by general direction of the Secretary of State.

(2) The Council may act notwithstanding any vacancy in their number.

7. President and Vice-President of Council.—(1) The Secretary of State shall be the president of the Council of India, with power to vote.

(2) The Secretary of State in Council may appoint any member of the Council to be Vice-President thereof, and the Secretary of State may at any tine remove any person so appointed.

(3) At every meeting of the Council the Secretary of State, or, in his absence, the Vice-President, if present, or, in the absence of both of them, one of the members of the Council, chosen by the members present at the meeting, shall preside.

8. Meetings of Council.—Meetings of the Council of India shall be convened and held as and when the Secretary of State directs, but one such meeting at least shall be held in every month.

9. Procedure at meetings.—(1) At any meeting of the Council of India at which the Secretary of State is present, if there is a difference of opinion on any question, except a question with respect to which a majority of votes at a meeting is by this Act declared to be necessary, the determination of the Secretary of State shall be final.

(2) In case of an equality of votes at any meeting of the Council, the person presiding at the meeting shall have a second or casting vote.

(3) All acts done at a meeting of the Council in the absence of the Secretary of State shall require the approval in writing of the Secretary of State.

(4) In case of difference of opinion on any question decided at a meeting of the Council, the Secretary of State may require that his opinion and the reasons for it be entered in the minutes of the proceedings, and any member of the Council, who has been present at the meeting, may require that his

opinion, and any reasons for it that he has stated at the meeting, be also entered in like manner.

10. Committees of Council and business.—The Secretary of State may constitute Committees of the Council of India for the more convenient transaction of business, and direct what departments of business are to be under those Committees respectively, and generally direct the manner in which the business of the Secretary of State in Council or the Council of India shall be transacted, and any order made or act done in accordance with such direction shall, subject to the provisions of this Act, be treated as being an order of the Secretary of State in Council.

Orders and Communications

11. Correspondence between Secretary of State and India.—Subject to the provisions of this Act, the procedure for the sending of orders and communications to India and in general for correspondence between the Secretary of State and the Governor-General in Council or any local government shall be such as may be prescribed by order of the Secretary of State in Council.

15. Communication to Parliament as to orders for commencing hostilities.—When any order is sent to India directing the actual commencement of hostilities by His Majesty's forces in India, the fact of the order having been sent shall, unless the order has in the meantime been revoked or suspended, be communicated to both Houses of Parliament within three months after the sending of the order, or, if Parliament is not sitting at the expiration of those three months, then within one month after the next meeting of Parliament.

19A. Relaxation of control of Secretary of State.—The Secretary of State in Council may, notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control, vested in the Secretary of State and the Secretary of State in Council by this Act, or

otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919.

Before any rules are made under this section relating to subjects other than transferred subjects, the rules proposed to be made shall be laid in draft before both Houses of Parliament, and such rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications or additions to which both Houses agree, but upon such approval being given the Secretary of State in Council may make such rules in the form in which they have been approved, and such rules on being so made shall be of full force and effect.

Any rules relating to transferred subjects made under this section shall be laid before both Houses of Parliament as soon as may be after they are made and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it, praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

PART II

THE REVENUES OF INDIA

20. Application of revenues.—(1) The revenues of India shall be received for and in the name of His Majesty, and shall, subject to the provisions of this Act, be applied for the purposes of the Government of India alone.

21. Control of Secretary of State over expenditure of revenues.—Subject to the provisions of this Act, and rules made thereunder, the expenditure of the

revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council, and no grant or appropriation of any part of those revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India:

Provided that a grant or appropriation made in accordance with provisions or restrictions prescribed by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council shall be deemed to be made with the concurrence of a majority of such votes.

22. Application of revenues to Military Operations beyond the Frontier.—Except for preventing or repelling actual invasion of His Majesty's Indian possessions, or under other sudden and urgent necessity the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues.

26. Accounts to be annually laid before Parliament.—(1) The Secretary of State in Council shall, within the first twenty-eight days during which Parliament is sitting next after the first day of May in every year, lay before both Houses of Parliament.—

(*a*) An account, for the financial year preceding that last completed, of the annual produce of the revenues of India.

(3) The account shall be accompanied by a statement, prepared from detailed reports from each province, in such form as best exhibits the moral and material progress and condition of India.

27. Audit of Indian accounts in United Kingdom.—(1) His Majesty may, by warrant under His Royal Sign Manual, countersigned by the Chancellor of the

Exchequer, appoint a fit person to be auditor of the accounts of the Secretary of State in Council, and authorise that auditor to appoint and remove such assistants as may be specified in the warrant.

(5) The auditor shall report to the Secretary of State in Council his approval or disapproval of the accounts aforesaid, with such remarks and observations in relation thereto, as he thinks fit, specially noting cases (if any) in which it appears to him that any money arising out of the revenues of India has been appropriated to purpose other than those to which they are applicable.

(7) The auditor shall lay all his reports before both Houses of Parliament, with the accounts of the year to which the reports relate.

(8) The auditor shall hold office during good behaviour.

(9) There shall be paid to the auditor and his assistants, out of the revenues of India, or out of moneys provided by Parliament, such salaries as His Majesty, by warrant signed and countersigned as aforesaid, may direct.

PART III

29A. High Commissioner for India.—His Majesty may by Order in Council make provision for the appointment of a High Commissioner for India in the United Kingdom, and for the pay, pensions, powers, duties, and conditions of employment of the High Commissioner and of his assistants; and the Order may further provide for delegating to the High Commissioner any of the powers previously exercised by the Secretary of State or the Secretary of State in Council, whether under this Act or otherwise, in relation to making contracts, and may prescribe the conditions under which he shall act on behalf of the Governor-General in Council or any local government.

32. Rights and liabilities of Secretary of State in Council.—The Secretary of State in Council may sue and be sued by the name of the Secretary of State in Council as a body corporate.

(2) Every person shall have the same remedies against the Secretary of State in Council as he might have had against the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(3) The property for the time being vested in His Majesty for the purposes of the government of India shall be liable to the same judgments and executions as it would have been liable to in respect of liabilities lawfully incurred by the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(4) Neither the Secretary of State nor any member of the Council of India shall be personally liable in respect of any assurance or contract made by or on behalf of the Secretary of State in Council, or any other liability incurred by the Secretary of State or the Secretary of State in Council in his or their official capacity, nor in respect of any contract, covenant or engagement of the East India Company; nor shall any person executing any assurance or contract on behalf of the Secretary of State in Council be personally liable in respect thereof; but all such liabilities, and all costs and damages in respect thereof, shall be borne by the revenues of India.

PART IV

THE GOVERNOR-GENERAL IN COUNCIL

33. Powers of control of Governor-General in Council.—Subject to the provisions of this Act and rules made thereunder, the superintendence, direction and control of the civil and military government of India is vested in the Governor-General in Council,

who is required to pay due obedience to all such orders as he may receive from the Secretary of State.

34. The Governor-General.—The Governor-General of India is appointed by His Majesty by warrant under the Royal Sign Manual.

36. Members of Council.—(1) The members of the Governor-General's executive Council shall be appointed by His Majesty by warrant under the Royal Sign Manual.

(2) The number of the members of the Council shall be such as His Majesty thinks fit to appoint.

(3) Three at least of them must be persons who have been for at least ten years in the service of the Crown in India and one must be a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland, or a pleader of a High Court of not less than ten years' standing.

(4) If any member of the council (other than the Commander-in-Chief for the time being of His Majesty's forces in India) is at the time of his appointment in the military service of the Crown, he shall not, during his continuance in office as such member, hold any military command or be employed in actual military duties.

(5) Provison may be made by rules under this Act as to the qualifications to be required in respect of the members of the Governor-General's executive council in any case where such provision is not made by the foregoing provisions of this section.

38. Vice-president of Council.—The Governor-General shall appoint a member of his executive council to be vice-president thereof.

39. Meetings.—(1) The Governor-General's executive council shall assemble at such places in India as the Governor-General in Council appoints.

(2) At any meeting of the Council the Governor-General or other person presiding and one member of the council (other than the Commander-in-Chief) may

exercise all the functions of the Governor-General in council.

40. Business of Governor-General in Council.—(1) All orders and other proceedings of the Governor-General in Council shall be expressed to be made by the Governor-General in Council, and shall be signed by a secretary to the Government of India, or otherwise, as the Governor-General in Council may direct and when so signed shall not be called into question in any legal proceeding on the ground that they were not duly made by the Governor-General in Council.

(2) The Governor-General may make rules and orders for the more convenient transaction of business in his executive council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the Governor-General in Council.

41. Procedure in case of difference of opinion.—(1) If any difference of opinion arises on any question brought before a meeting of the Governor-General's executive council, the Governor-General in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided, the Governor-General or other person presiding shall have a second or casting vote.

(2) Provided that whenever any measure is proposed before the Governor-General in Council whereby the safety, tranquillity or interests of British India, or of any part thereof are or may be, in the judgment of the Governor-General, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the Governor-General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the

dissentient majority may require that the adoption suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the council have recorded on the subject.

(4) Nothing in this section shall empower the Governor-General to do anything which he could not lawfully have done with the concurrence of his council.

43A. Appointment of council secretaries.—(1) The Governor-General may at his discretion appoint from among the members of the Legislative Assembly, council secretaries who shall hold office during his pleasure and discharge such duties in assisting the members of his executive council as he may assign to them.

(2) There shall be paid to council secretaries so appointed such salary as may be provided by the Indian Legislature.

(3) A council secretary shall cease to hold office if he ceases more than six months to be a member of the Legislative Assembly.

PART V

LOCAL GOVERNMENTS

45. Relation of local governments to Governor-General in Council.

Council.—(1) Subject to the provisions of this Act and rules made thereunder every local government shall obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superitendence, direction and control in all matters relating to the government of its province.

(3) The authority of a local government is not superseded by the presence in its province of the Governor-General.

45A. Classification of central and provincial subjects—(1) Provision may be made by rules under this Act—

(*a*) for the classification of subjects, in relation to the functions of government, as central and provincial subjects, for the purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor-General in Council and the Indian legislature;

(*b*) for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments;

(*c*) for the use under the authority of the Governor-General in Council of the agency of local government in relation to central subjects, in so far as such agency may be found convenient, and for determining the financial conditions of such agency; and

(*d*) for the transfer from among the provincial subjects of subjects (in this Act referred to as "transferred subject") to the administration of the governor acting with ministers appointed under this Act, and for the allocation of revenues or moneys for the purpose of such administration.

(2) Without prejudice to the generality of the foregoing powers, rules made for the above-mentioned purposes may—

(i) regulate the extent and conditions of such devolution, allocation, and transfer;

(ii) provide for fixing the contributions payable by local governments to the Governor-

General in Council, and making such contributions a first charge on allocated revenues or moneys;

(iii) provide for constituting a finance department in any province, and regulating the functions of that departmeut,

(iv) provide for regulating the exercise of the authority vested in the local government of a province over members of the public services therein.

(v) provide for the settlement of doubts arising as to whether any matter does or does not relate to a provincial subject or a transferred subject, and for the treatment of matters which affect both a transferred subject and a subject which is not transferred; and

(vi) make such consequential and supplemental provisions as appear necessary or expedient.

Provided that without prejudice to any general power of revoking or altering rules under this Act, the rules shall not authorise the revocation or suspension of the transfer of any subject except with the sanction of the Secretary of State in Council.

(3) The powers of superintendence, direction, and control over local governments vested in the Governor-General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified.

(4) The expressions "central subjects" and "provincial subjects" as used in this Act mean subjects so classified under the rules.

Provincial subjects, other than transferred subjects, are in this Act referred to as "reserved subjects."

Governorships.

46. Local Government in Governors' Provinces.—(1) The presidencies of Fort William in Bengal, Fort St. George, and Bombay and the provinces known as the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces, and Assam, shall each be governed, in relation to reserved subjects, by a governor in council, and in relation to transferred subjects (save as otherwise provided by this Act) by the governor acting with ministers appointed under this Act.

The said presidencies and provinces are in this Act referred to as "governors' provinces" and the two first named presidences are in this Act referred to as the presidencies of Bengal and Madras.

(2) The governors of the said presidencies are appointed by His Majesty by warrant under the Royal Sign Manual, and the governors of the said provinces shall be so appointed after consultation with the Governor-General.

(3) The Secretary of State may, if he thinks fit, by order revoke or suspend, for such period as he may direct, the appointment of a council for any or all of the governors' provinces; and whilst any such order is in force the governor of the province to which the order refers shall have all the powers of the Governor thereof in Council.

47. Members of Governors' executive councils.—(1) The members of a governor's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual, and shall be of such number, not exceeding four, as the Secretary of State in Council directs.

(2) One at least of them must be a person who at the time of his appointment has been for at least twelve years in the service of the Crown in India.

(3) Provision may be made by rules under this Act as to the qualifications to be required in respect of members of the executive council of the governor

of a province in any case where such provision is not made by the foregoing provisions of this section.

48. Vice-president of the Council.—Every governor of a province shall appoint a member of his executive council to be vice-president thereof.

49. Business of Governor-in-Council and Governor with ministers.—(1) All orders and other proceedings of the government of a governor's province shall be expressed to be made by the government of the province, and shall be authenticated as the governor may by rule direct, so, however, that provision shall be made by rule for distinguishing orders and other proceedings relating to transferred subjects from other orders and proceedings.

Orders and proceedings authenticated as aforesaid shall not be called into question in any legal proceeding on the ground that they were not duly made by the government of the province.

(2) The governor may make rules and orders for the more convenient transaction of business in his executive council and with his ministers, and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of the government of the province.

The governor may also make rules and orders for regulating the relations between his executive council and his ministers for the purpose of the transaction of the business of the local government.

Provided that any rules or orders made for the purposes specified in this section which are repugnant to the provisions of any other rules made under this Act, shall, to the extent of that repugnancy, but not otherwise, be void.

50. (1) & (2), (4) same as **41.** (1), (2) (4) *mutatis mutandis.*

(3) In every such case the governor and the members of the council present at the meeting shall mutually exchange written communications (to be recorded at large in their secret proceedings) stating

the grounds of their respective opinions, and the order of the governor shall be signed by the governor and by those members.

52. Appointment of Ministers and Council Secretaries.—(1) The governor of a governor's province may, by notification, appoint ministers, not being members of his executive council or other officials, to administer transferred subjects, and any ministers so appointed shall hold office during his pleasure.

There may be paid to any minister so appointed in any province the same salary as is payable to a member of the executive council in that province, unless a smaller salary is provided by vote of the legislative council of the province.

(2) No minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature.

(3) In relation to transferred subjects, the governor shall be guided by the advice of his ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice :

Provided that rules may be made under this Act for temporary administration of a transferred subject where, in cases of emergency, owing to a vacancy, there is no minister in charge of the subject, by such authority and in such manner as may be prescribed by the rules.

(4) The governor of a governor's province may at his discretion appoint from among the non-official members of the local legislature, council secretaries, who shall hold office during his pleasure, and discharge such duties in assisting members of the executive council and ministers as he may assign to them.

There shall be paid to council secretaries so appointed such salary as may be provided by vote of the legislative council.

A council secretary shall cease to hold office if he ceases for more than six months to be a member of the legislative council.

52A. Constitution of new provinces, &c., and provision as to backward tracts.—(1) The Governor-General in Council may, after obtaining an expression of opinion from the local government and the local legislature affected, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitue a new governor's province, or place part of a governor's province under the administration of a deputy-governor to be appointed by the Governor-General, and may in such case apply, with such modifications as appear necessary or desirable, all or any of the provisions of this Act relating to governor's provinces or provinces under a lieutenant governor or chief commissioner, to any such new province or part of a province.

(2) The Governor-General in Council may declare any territory in British India to be a "backward tract." and may, by notification, with such sanction as aforesaid, direct that this Act shall apply to that territory subject to such exceptions and modifications as may be prescribed in the notification.

Where the Governor-General in Council has, by notification, directed as aforesaid, he may, by the same or subsequent notification, direct that any Act of the Indian legislature shall not apply to the territory in question or any part thereof, or shall apply to the territory or any part thereof subject to such exceptions or modifications as the Governor-General thinks fit, or may authorise the governor in council to give similar directions as respects any Act of the local legislature.

60. Power to declare and alter boundaries of provinces.—The Governor-General in Council may, by notification, declare, appoint or alter the boundaries of any of the provinces into which British India is for the time being divided, and distribute the territories of

British India among the several provinces thereof in such manner as may seem expedient, subject to these qualifications, namely:—

(1) An entire district may not be transferred from one province to another without the previous sanction of the Crown, signified by the Secretary of State in Council; and

(2) any notification under this section may be disallowed by the Secretary of State in Council.

PART VI

INDIAN LEGISLATION

The Indian Legislature

63. Indian Legislature.—Subject to the provisions of this Act, the Indian Legislature shall consist of the Governor-General and two chambers, namely, the Council of State and the Legislative Assembly.

Except as otherwise provided by or under this Act, a Bill shall not be deemed to have been passed by the Indian Legislature unless it has been agreed to by both chambers, either without amendment or with such amendments only as may be agreed to by both chambers.

63A. Council of State.—(1) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act, of whom not more than twenty shall be official members.

(2) The Governor-General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct.

(3) The Governor-General shall have the right of addressing the Council of State, and may for that purpose require the attendance of its members.

63B. Legislative Assembly.—(1) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act.

(2) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred.

Provided that rules made under this Act may provide for increasing the number of members of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members of the Legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members.

(3) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.

63C. President of Legislative Assembly.—(1) There shall be a president of the Legislative Assembly, who shall, until the expiration of four years from the first meeting thereof, be a person appointed by the Governor-General, and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General:

Provided that, if at the expiration of such period of four years the Assembly is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the ensuing session.

(2) There shall be a deputy-president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(3) The appointed president shall hold office until the date of the election of a president under this

section, but he may resign his office by writing under his hand addressed to the Gevernor-General, or may be removed from office by order of the Governor-General, and any vacancy occurring before the expiration of his term of office shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office if they cease to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General, and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(5) A president and deputy-president shall receive such salaries as may be determined, in the case of an appointed president by the Governor-General, and in the case of an elected president and a deputy-president by Act of the Indian legislature.

63D. Duration and sessions of Legislative Assembly and Council of State.—(1) Every Council of State shall continue for five years, and every Legislative Assembly for three years from its first meeting:

Provided that—

(*a*) either chamber of the legislature may be sooner dissolved by the Governor-General and

(*b*) any such period may be extended by the Governor-General if in special circumstances he so thinks fit and

(*c*) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months, or with the sanction of the Secretary of State not more than nine months, after the date of dissolution for the next session of that chamber.

(2) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also

from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(4) All questions in either chamber shall be determined be a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(5) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.

63E. Membership of both Chambers.—(1) An official shall not be qualified for election as a member of either chamber of the Indian legislature, and if any non-official member of either chamber accepts office in the service of the Crown in India, his seat in that chamber shall become vacant.

(2) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber his seat in such first-mentioned chamber shall thereupon become vacant,

(3) If any person is elected a member of both chambers of the Indian legislature he shall, before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall become vacant.

(4) Every member of the Governor-Genetal's Executive Council shall be nominated as a member of one chamber of the Indian legislature, and shall have the right of attending in and addressing the other chamber, but shall not be a member of both chambers.

64. Supplementary provisions as to composition of Legislative Assembly and Council of State.—(1) Subject to the provisions of this Act, provision may be made by rules under this Act as to—

(*a*) the term of office of nominated members of

the Council of State and the Legislative Assembly, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise; and

(*b*) the conditions under which and the manner in which persons may be nominated as members of the Council of State or the Legislative Assembly; and

(*c*) the qualification of electors, the constitution of constituencies, and the method of election for the Council of State and the Legislative Assembly (including the number of members to be elected by communal and other electorates) and any matters incidential or ancillary thereto; and

(*d*) the qualifications for being nominated or elected as members of the Council of State or the Legislative Assembly; and

(*e*) the final decision of doubts or disputes as to the validity of an election; and

(*f*) the manner in which the rules are to be carried into effect.

(2) Subject to any such rules, any person who is a ruler or subject of any state in India may be nominated as a member of the Council of State or the Legislative Assembly.

65. Powers of Indian Legislature.—(1) The Indian legislature has power to make laws—

(*a*) for all persons, for all courts, and for all places and things, within British India; and

(*b*) for all subjects of His Majesty and servants of the Crown within other parts of India; and

(*c*) for all native Indian subjects of His Majesty, without and beyond as well as within British India; and

(*d*) for the government officers, soldiers, airmen and followers in His Majesty's Indian forces, wherever they are serving in so far as they are not subject to the Army Act or the Air Force Act; and

(*e*) for all persons employed or serving in or belonging to the Royal Indian Marine Service; and

(*f*) for repealing or altering any laws which for the time being are in force in any part of British India or apply to persons for whom the Indian legislature has power to make laws.

(2) Provided that the Indian legislature has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting—

(*i*) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India (including the Army Act, the Air Force Act and any Act amending the same); or

(*ii*) any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of India;

and has not power to make any law affecting the authority of Parliament, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or affecting the sovereignty or dominion of the Crown over any part of British India.

(3) The Indian legislature has not power without the previous approval of the Secretary of State in Council, to make any law empowering any court, other than a high court, to sentence to the punishment of death any of His Majesty's subjects born in Europe, or the children of such subjects, or abolishing any high court.

67. Business and proceedings in Indian Legislature—(1) Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian Legislature, and as to the persons to preside at the meetings of the Legislative Assembly in the absence of the president and the deputy-president; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.

(2) It shall not be lawful, without the previous sanction of the Governor-General, to introduce at any meeting of either chamber of the Indian legislature any measure affecting—

(*a*) the public debt or public revenues of India or imposing any charge on the revenues of India; or

(*b*) the religion or religious rites and usages of any class of British subjects in India; or

(*c*) the discipline or maintenance of any part of His Majesty's military, naval, or air forces; or

(*d*) the relations of the Government with foreign princes or states:

or any measure.—

(i) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under this Act to be subject to legislation by the Indian legislature; or

(ii) repealing or amending any Act of a local legislature; or

(iii) repealing or amending any Act or ordinance made by the Governor-General.

(2*a*) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may

certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquillity of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the chamber in relation to the Bill, clause, or amendment, and effect shall be given to such direction.

(3) If any Bill which has been passed by one chamber is not, within six months after the passage of the Bill by that chamber, passed by the other chamber either without amendments or with such amendments as may be agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers: Provided that standing orders made under this section may provide for meetings of members of both chambers appointed for the purpose, in order to discuss any difference of opinion which has arisen between the two chambers.

(4) Without prejudice to the powers of the Governor-General under section sixty-eight of this Act, the Governor-General may, where a Bill has been passed by both chambers of the Indian legislature, return the Bill for reconsideration by either chamber.

(5) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in either chamber of the Indian legislature in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the Governor-General in Council but may with the consent of the Governor-General be altered by the chamber to which they relate.

Any standing order made as aforesaid which is repugnant to the provision of any rules made under this Act shall to the extent of that repugnancy but not otherwise, be void.

(7) Subject to the rules and standing orders affecting the chamber there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of his speech, or vote in either chamber or by reason of anything contained in any official report of the proceedings of either chamber.

67A. Indian budget.—(1) The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian legislature in each year.

(2) No proposal for the appropriation of any revenue of moneys for any purpose shall be made except on the recommendation of the Governor-General.

(3) The proposals of the Governor-General in Council for the appropriation of revenue or money relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs—

(*i*) interest and sinking fund charges on loans and

(*ii*) expenditure of which the amount is prescribed by or under any law; and

(*iii*) Salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(*iv*) salaries of chief commissioners and judicial commissioners; and

(*v*) expenditure classifies by the order of the Governor-General in Council as—

(*a*) ecclesiastical;

(*b*) political;

(*c*) defence.

(4) If any question arises whether any proposed appropriation of revenue or moneys does or does not

relate to the above heads, the decision of the Governor-General on the question shall be final.

(5) The prposals of the Governor-General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant.

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor-General in Council who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(8) Notwithstanding anything in this section the Governor-General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.

67B. Provision for case of failure to pass legislation.— (1) Where either chamber of the Indian legislature refuses leave to introduce, or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof, and thereupon—

(*a*) If the Bill has already been passed by the other chamber, the Bill shall, on signature by the Governor-General, notwithstanding that it has not been consented to by both chambers, forthwith become an Act of the Indian

legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian legislature, or (as the case may be) in the form recommended by the Governor-General ; and

(*b*) If the Bill has not entirely been so passed, the Bill shall be laid before the other chamber and, if consented to by the Governor-General, shall become an Act as aforesaid on the signification of the Governor-General's assent, or, if not so consented to, shall, on signature by the Governor-General become an Act as aforesaid.

(2) Every such Act shall be expressed to be made by the Governor-General, and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not, have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat: and upon the significance of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act, shall have the same force and effect as an Act passed by the Indian legislature and duly assented to:

Provided that where in the opinion of the Governor-General a state of emergency exists which justifies such action, the Governor-General may direct that any such Act shall come into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.

68. Assent of Governor-General to Bills.—(1) When a Bill has been passed by both chambers of the Indian legislature, the Governor-General, may declare that he assents to the Bill, or that he withholds assent from the Bill, or that he reserves the Bill for the signification of His Majesty's pleasure thereon.

(2) A Bill passed by both chambers of the Indian

legislature shall not become an Act until the Governor-General has declared his assent thereto, or, in the case of a Bill reserved for the signification of His Majesty's pleasure, until His Majesty in Council has signified his assent and that assent has been notified by the Governor-General.

69. Powers of Crown to disallow Acts.—(1) When an Act of the Indian legislature has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty in Council to signify his disallowance of any such Act.

(2) Where the disallowance of any such Act has been so signified, the Governor-General shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

Regulations and Ordinances

71. Power to make regulations.—(1) The local Government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council the draft of any regulation for the peace and good government of that part, with the reasons for proposing the regulations.

(2) Thereupon the Governor-General in Council may take any such draft and reasons into consideration and when any such draft has been approved by the Governor-General in Council and assented to by the Governor-General, it shall be published in the Gazette of India and in the local official gazette, if any, and shall thereupon have the like force of law and be subject to the like disallowance as if it were an Act of the Indian legislature.

(3) The Governor-General shall send to the Secretary of State in Council an authentic copy of every regulation to which he has assented under this section.

(4) The Secretary of State may, by resolution in council, apply this section to any part of British India, as from a date to be fixed in the resolution, and withdraw the application of this section from any part to which it has been applied.

72. Power to make ordinances in case of emergency.—The Governor-General may, in cases of emergency, make and promulgate ordinances for the peace and good government of British India or any part thereof, and any ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the Indian legislature but the power of making ordinances under this section is subject to the like restrictions as the power of the Indian legislature to make laws; and any ordinance made under this section is subject to the like disallowance as an Act passed by the Indian legislature and may be controlled or superseded by any such Act.

LOCAL LEGISLATURES

(a) Governors' Provinces

72A. Composition of Governor's Legislative Councils.—(1) There shall be a legislative council in every governor's province, which shall consist of the members of the executive council and of the members nominated or elected as provided by this Act.

The governor shall not be a member of the legislative council, but shall have the right of addressing the council, and may for that purpose require the attendance of its members.

(2) The number of members of the governors' legislative councils shall be in accordance with the table set out in the First Schedule to this Act; and of the members of each council not more than twenty per cent. shall be official members, and at least seventy per cent. shall be elected members:

Provided that—

(*a*) Subject to the maintenance of the above proportions, rules under this Act may provide for increasing the number of members of any council, as specified in that schedule; and

(*b*) the governor may, for the purposes of any Bill introduced or proposed to be introduced in his legislative council, nominate, in the case of Assam one person, and in the case of other provinces not more than two persons, having special knowledge or experience of the subject-matter of the Bill, and those persons shall, in relation to the Bill, have for the period for which they are nominated all the rights of members of the council, and shall be in addition to the numbers above referred to; and

(*c*) members nominated to the legislative council of the Central Provinces by the governor as the result of elections held in the Assigned Districts of Berar shall be deemed to be elected members of the legislative council of the Central Provinces.

(3) The powers of a governor's legislative council may be exercised notwithstanding any vacancy in the Council.

(4) Subject as aforesaid, provision may be made by rules under this Act as to—

Same as **64** (*a*), (*b*), (*c*), (*d*), (*e*), (*f*) *mutatis mutandis.*

Provided that rules as to any such matters as aforesaid may provide for delegating to the local government such power as may be specified in the rules of making subsidiary regulation affecting the same matters.

(5) Subject to any such rules any person who is a ruler or subject of any State in India may be nominated as a member of a governor's legislative council.

72B. Sessions and duration of governors' legislative councils.—(1) Every governor's legislative council shall continue for three years from its first meeting;

Provided that—

(*a*) the council may be sooner dissolved by the governor; and

(*b*) the said period may he extended by the governor for a period not exceeding one year by notification in the official gazette of the province, if in special circumstances (to be specfied in the notification) he so think fit; and

(*c*) after the dissolution of the council the governor, shall appoint a date not more than six months or, with the sanction of the Secretary of State not more than nine months from the date of dissolution for the next session of the council.

(2) A governor may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also by notification or otherwise, prorogue the council.

(3) Any meeting of a governors' legislative council may be adjourned by the person presiding.

(4) All questions in a governor's legislative council shall be determined by a majority of votes of the members present other than the person presiding, who shall, however, have and exercise a casting vote in the case of an equality of votes.

72C. Presidents of governors' legislative councils—(1) There shall be a president of a governor's legislative council, who shall, until the expiration of a period of four years from the first meeting of the council as constituted under this Act, be a person appointed by the governor, and shall thereafter be a member of the council elected by the council and approved by the governor:

Provided that, if at the expiration of such period

of four years the council is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the next ensuing session.

(2) There shall be a deputy-president of a governor's legislative council who shall preside at meetings of the council in the absence of the president, and who shall be a member of the council elected by the council and approved by the governor.

(3) The appointed president of a council shall hold office until the date of the first election of a president by the council under this section but he may resign office by writing under his hand addressed to the governor, or may be removed from office by order of the governor, and any vacancy occurring before the expiration of the term of office of an appointed president shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office on ceasing to be members of the council. They may resign office by writing under their hands addressed to the governor, and may be removed from office by a vote of the council with the concurrence of the governor.

(5) The president and the deputy president shall receive such salaries as may be determined, in the case of an appointed president, by the governor, and in the case of an elected president or deputy-president, by Act of the local legislature.

72D. Business and procedure in governors' legislative councils.—(1) The provisions contained in this section shall have effect with respect to business and procedure in governors' legislative councils.

(2) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the council in each year, and the proposals of the local government for the appropriation of provincial revenues and other moneys in any year

shall be submitted to the vote of the council in the form of demands for grants. The council may assent or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed.

Provided that—

(*a*) the local government shall have power in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject, and the governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject; and

(*b*) the governor shall have power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department; and

(*c*) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made except on the recommendation of the governor, communicated to the council.

(3) Nothing in the foregoing sub-section shall require proposals to be submitted to the council relating to the following heads of expenditure:—

(*i*) contributions payable by the local government to the Governor-General in Council; and

(*ii*) interests and sinking fund charges on loans; and

(*iii*) expenditure of which the amount is prescribed by or under any law; and

(*iv*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(*v*) salaries of judges of the high court of the province and of the advocate-general.

(4) If any question arises whether any proposed appropriation of moneys does or does not relate to the above heads of expenditure, the decision of the governor shall be final.

(5) Where any Bill has been introduced or is proposed to be introduced or any amendment to a Bill is moved or proposed to be moved, the governor may certify that the Bill or any clause of it or the amendment effects the safety or tranquillity of its province or any part of it or of another province, and may direct that no proceedings or no further proceedings shall be taken by the council in relation to the Bill, clause or amendment, and effect shall be given to any such direction.

(6) Provision may be made by rules under this Act for the purpose of carrying into effect the foregoing provisions of this section and for regulating the course of business in the council, and as to the persons to preside over meetings thereof in the absence of the president and deputy-president, and the preservation of order at meetings; and the rules may provide for the number of members required to constitute a quorum and for prohibiting or regulating the asking of questions on and the discussion of any subject specified in rules.

(7) Standing orders may be made providing for the conduct of business and the procedure to be followed in the council, in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the governor in council, but may, subject to the assent of the governor, be altered by the local legislatures. Any standing order made as aforesaid, which is repugnant to the provisions of any rules made under this Act, shall to the extent of that repugnancy but not otherwise be void.

(8) Subject to the rules and standing orders

affecting the council, there shall be freedom of speech in the governors' legislative councils. No person shall be liable to any proceedings in any court by reason of his speech or vote in any such council, or by reason of anything contained in any official report of the proceedings of any such council.

72E. Provision for case of failure to pass legislation in governors' legislative councils—(1) Where a governor's legislative council has refused leave to introduce, or has failed to pass in a form recommended by the governor, any Bill relating to a reserved subject, the governor may certify that the passage of the Bill is essential for the discharge of his responsibility for the subject, and thereupon the Bill shall, notwithstanding that the council have not consented thereto be deemed to have passed, and shall on signature by the governor become an Act of the local legislature in the form of the Bill as originally introduced or proposed to be introduced in the council or (as the case may be) in the form recommended to the council by the governor.

(2) Every such Act shall be expressed to be made by the governor, and the governor shall forthwith send an authentic copy thereof to the Governor-General, who shall reserve the Act for the signification of His Majesty's pleasure, and upon the signification of such assent by His Majesty in Council and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the local legislature and duly assented to.

Provided that where in the opinion of the Governor-General a state of emergency exists which justifies such action he may, instead of reserving such Act, signify his assent thereto, and thereupon the Act, shall have such force and effect as aforesaid, subject however to disallowance by His Majesty in Council.

(3) An Act made under this section shall as soon as practicable after being made be laid before each House of Parliament, and an Act, which is required to be presented for His Majesty's assent shall not be

so presented until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat.

80A Powers of Local Legislatures—(1) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

(2) The local legislature of any province may, subject to the provisions of the sub-section next following, repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

(*a*) imposing or authorising the imposition of any tax unless the tax is a tax scheduled as exempted from this provision by rules made under this Act; or

(*b*) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the government of India, provided that the imposition or alteration of a tax scheduled as aforesaid shall not be deemed to affect any such tax or duty; or

(*c*) affecting the discipline or maintenance of any part of His Majesty's naval, military, or air forces; or

(*d*) affecting the relations of the government with foreign princes or states; or

(*e*) regulating any central subject; or

(*f*) regulating any provincial subject which has been declared by rules under this Act to be, either in whole or in part subject to legislation

by the Indian legislature, in respect of any matter to which such declaration applies ; or

(*g*) affecting any power expressly reserved to the Governor-General in Council by any law for the time being in force ; or

(*h*) altering or repealing the provisions of any law which having been made before the commencement of the Government of India Act, 1919 by any authority in British India other than the local legislature, is declared by rules under this Act to be a law which cannot be repealed or altered by the local legislature without previous sanction ; or

(*i*) altering or repealing any provision of an Act of the Indian legislature made after the commencement of the Government of India Act, 1919, which by the provisions of such first-mentioned Act may not be repealed or altered by the local legislatnre without previous sanction :

Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the Governor-General in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

(4) The local legislature of any province has not power to make any law affecting any Act of Parliament.

81A. Return and reservation of Bills—(1) Where a Bill has been passed by a local legislative council, the governor, lieutenant-governor or chief commissioner may, instead of declaring that he assents to or witholds his assent from the Bill, return the Bill to the council for reconsideration, either in whole or in part, together with any amendments which he may recommend, or, in cases prescribed by rules under this Act, may, and if the rules so require, shall, reserve the Bill for the consideration of the Governor-General.

(2) Where a Bill is reserved for the consideration

of the Governor-General, the following provisions shall apply :—

(*a*) The governor, lieutenant-governor or chief Commissioner may, at any time within six months from the date of the reservation of the Bill, with the consent of the Governor-General return the Bill for further consideration by the council with a recomendation that the council shall consider amendments thereto.

(*b*) After any Bill so returned has been further considered by the council, together with any recommendations made by the governor, lieutenant-governor or chief commissioner relating thereto, the Bill, if re-affirmed with or without amendment, may be again presented to the governor, lieutenant-governor or chief commissioner : .

(*c*) Any Bill reserved for the consideration of the Governor-General shall, if assented to by the Governor-General within a period of six months from the date of such reservation, become law on due publication of such assent, in the same way as a Bill assented to by the governor, lieutenant-governor or chief commissioner, but if not assented to by the Governor-General within such period of six months, shall lapse and be of no effect unless before the expiration of that period either,

(*i*) the Bill has been returned by the governor, lieutenant-governor or chief commissioner for further consideration by the council; or

(*ii*) in the case of the council not being in session, a notification has been published of an intention so to return the Bill at the commencement of the next session.

(3) The Governor-General may (except where the Bill has been reserved for his consideration), instead of assenting to or witholding his assent from any act

passed by a local legislature, declare that he reserves the Act for the signification of His Majesty's pleasure thereon, and in such case the Act shall not have validity until His Majesty in Council has signified his assent and his assent has been notified by the Governor-General.

PART VIA

STATUTORY COMMISSION

84A. Statutory Commission :—(1) At the expiration of ten years after the passing of the Government of India Act 1919, the Secretary of State with the concurrence of both Houses of Parliament shall submit for the approval of His Majesty the names of persons to act as a commission for the purposes of this section.

(2) The persons whose names are so submitted, if approved by His Majesty, shall be a commission for the purpose of inquiring into the working of the system of government, the growth of education, and the development of representative institutions, in British India, and matters connected therewith, and the commission shall report as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify or restrict the degree of responsible government, then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable.

(3) The commission shall also inquire into and report on any other matter affecting British India and the provinces which may be referred to the commission by His Majesty.

PART VIIA

THE CIVIL SERVICES IN INDIA

96B. The Civil Service in India:—(1) Subject to the provisions of this Act and or rules made thereunder, every person in the civil service of the Crown in India holds office during His Majesty's pleasure, and may be employed in any manner required by a proper authority within the scope of his duty, but no person in that service may be dismissed by any authority subordinate to that by which he was appointed, and the Secretary of State in Council may (except so far as he may provide by rules to the contrary) reinstate any person in that service who has been dismissed.

If any such person appointed by the Secretary of State in Council thinks himself wronged by an order of an official superior in a governor's province, and on due application made to that superior does not receive the redress to which he may consider himself entitled, he may, without prejudice to any other right of redress, complain to the governor of the province in order to obtain justice, and the governor is hereby directed to examine such complaint and requires such action to be taken thereon as may appear to him to be just and equitable.

(2) The Secretary of State in Council may make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to local governments, or authorise the Indian legislature or local legislatures to make laws regulating the public services.

96C. Public Service Commission.—(1) There shall be established in India a public service commission, consisting of not more than five members, of whom one shall be chairman, appointed by the

Secretary of State in Council. Each member shall hold office for five years, and may be re-appointed. No member shall be removed before the expire of his term of office, except by order of the Secretary of State in Council. The qualifications for appointment and the pay and pension (if any) attaching to the office of chairman and members shall be prescribed by rules made by the Secretary of State in Council.

(2) The public service commission shall discharge in regard to recruitment and control of the public services in India, such functions as may be assigned thereto by rules made by the Secretary of State in Council.

96D. Financial Control.—An auditor-general in India shall be appointed by the Secretary of State in Council, and shall hold office during His Majesty's pleasure. The Secretary of State in Council shall, by rules, make provision for his pay, powers, duties, and conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

NOTES ON BOOKS

Books dealing with Indian History and Politics are legion. Such only as are more important or within the easier reach of students are mentioned here. The list is indicative, not exhaustive.

A—*Indian History*—

1. Sir Alfred Lyall–Expansion of British Dominions in India, Murray 1902.
   (Standard book on the territorial expansion of the E. I. Co.)
2. W.H. Woodward–Short History of the Expansion of the British Empire.
   (Cambridge University Press).
3. Prof. P. E. Roberts—Historical Geography of India (Oxford University),
4. Sir V. Lovett—India
   (contains a readable account of the British Period up to 1923). Hodder & Stoughton 1923.
5. R. C. Dutt—England and India.
   Chatto and Windus 1897.
   (Traces the influence of British Politics upon India up to 1897).
6. Major B. D. Basu, I. M. S.—Rise of Christian Power in India— Panini Office, Allahabad, 1924
7. W. Torrens—Empire in Asia—Panini Office.
   Both books present the other side of the shield.

B—*Double Government*—

1. John William Kaye–Administration of the E.I. Co.
   Richard Bentley, London 1858.
   (A standard book).

2. R. C. Dutt—Economic History of British India up to 1835). Kegan Paul, London 1902. (Authority from the Indian point of view).

3. General John Briggs–India and Europe Compared, Allen & Co., 1857.

4. F. D. Ascoli—Early Revenue History of Bengal, Oxford, Clarendon Press 1917.

C—*Bureaucratic Government*—

(i) Generally official, descriptive or appreciative in tone.

1. Sir John Strachey—India—Its Administration and Progress. (MacMillan), 1903.

2. Sir George Chesney—The Indian Polity. (Longmans 1894).

3. Sir Bamfylde-Fuller—Studies of Indian Life and Sentiment. Murray 1910.

4. Sir J. D. Rees—The Real India. Methuen 1908.

(ii) The *evil* effects of Bureaucracy have been pointed out by—

1. Bernard Houghton—Bureaucratic Government.

2. William Digby—Prosperous India. T. Fisher Unwin, 1901.

3. Dadabhoy Nowroji—Poverty and Un-British Rule in India.

4. R. C. Dutt—1. Famines in India.
2. India in Victorian Age, Kegan Paul 1906,
The last four deal with the *economic* aspects of British Rule.

(iii) *The National Awakening in India* has been treated by—

1. Annie Besant—How India Wrought for Freedom.
Theosophical Publishing House, Madras, 1915.

2. Sir V. Lovett—History of the Indian National Movement.
3. Ramsay MacDonald—The Awakening of India Hodder and Stoughton 1910.

(iv) *Morley-Minto Reforms.*—

1. E. Major—Viscount Morley and Indian Reforms. James Nisbet, London 1910.

D—*Responsible Government*—

(i) *Official*:—

1. Montagu and Chelmsford—Report on Indian Constitutional Reforms.
2. Reports of the Franchise and Functions Committees of Lord Southborough.
3. Fourth and Fifth Despatches of the Government of India.
4. Lord Crewe's Committee on Home Administration.
5. Lord Meston's Committee on Financial Relations.
6. Reports of the Joint Committee of Parliament on the Government of India Bill.
7. Report of the Lee Commission on Public Services in India.
8. Report of the Reforms Enquiry Committee.
9. Devolution Rules.
10. Standing Orders and Manuals of Indian and Provincial Legislatures.
11. Government of India Act (Consolidated).
12. E. L. L. Hammond—Indian Elections.

(ii) *Commentaries on the Act of* 1919.

1. P. Mukerji—The Indian Constitution. (Thacker, Calcutta).

2. S. M. Bose—The Working Constitution in India (Oxford 1921).
3. Shah—The Governance of India, Bombay 1924.

(iii) *Other Books on the Act—critical and explanatory*

1. Lionel Curtis—Dyarchy (Oxford University).
2. Ilbert—Historical Survey, 1922 (Oxford).
3. Horne (Oxford 1922).
4. Ilbert and Meston—The New Constitution of India. University of London 1923. (Six popular and excellent lectures).
5. B. G. Sapre—The Reformed Constitution of British India 1921.
   Contains a full description of the new Constitution

(E)—*Books dealing with the Indian Constitution and Administration.*

1. Sir L. C. Ilbert—The Government of India (Oxford) 1917.
   (A masterly Historical Introduction, and a digest of Laws on the Indian Construction up to 1916)
2. Sir O'Moore Creagh—Indian Studies.
3. Joseph Chailley—Administrative Problems of British India. MacMillan 1910.
4. Ramsay Macdonald—The Government of India. The Swarthmore Press.
5. A. Rangaswamy Iyengar—The Indian Constitution Madras, 1915.
6. Ramchandra Rao—The Development of Indian Polity. Madras, 1917.
7. N. Ghose—Comparative Administrative Law (Tagore Law Lecture, 1918). Butterworth, Calcutta, 1919.

8. P. K. Wattal—Financial Administration in British India. *Times of India Press,* 1923.
9. G. N. Gilchrist—Separation of Judicial and Executive Functions. Calcutta University. 1924.
10. P. C. Mitter – The same subject.
11. Dr. J. Mathai—Village Government in Br. India
12. Baden Powell—Land Revenue in Br. India (Oxford University).
13. An important source of information dealing with diverse aspects of Indian constitution and administration is the Speeches of: Gokhale; Lord Morley; Montagu; the Rt. Hon. Shastri; Lord Curzon; Minto; Hardinge.

(F)—*Text-books on Indian Administration*—

1. Prof. V. G. Kale—Indian Administration Aryabhushan, Poona, 1923.
2. Sir. G. Anderson—British Administration in India, MacMillian, 1923.
3. Prof. B. K. Thakore—Indian Administration to the Dawn of Responsible Government, Poona, 1922.

(G)—*Books suggesting problems of Reconstruction*—

1. Sir. M. Vishvaishwarayya—Reconstructing India, P. S. King & Son.
2. Arnold Lupton—Happy India, Allen and Unwin, 1922. (Shows what science may do for India).

(H)—*Original Sources*—

1. Prof. Ramsay Muir—The Making of British India (1765-1857), (Contains excellent introductions) Manchester University 1915.
2. Firminger—Fifth Report of the E. I. Co., 3 volumes, (1812), Cambrai & Co., Calcutta.

(A scholarly introduction to the E. I. Co., and its Indian Administration).

3. Prof. Mukerji—Indian Constitutional Documents. Thacker Spink & Co., Calcutta, 1916.
4. Prof. Berridale Keith—Speeches on Indian Policy. 2 Vols., (1750-1920),
Oxford University, 1922)
(Speeches in Parliament; a useful collection).
5. Anderson and Subhedar—The Development of European Policy, 2 Vols., 1818-1858
George Bell and Sons, London, 1921.

(I)— *Official Literature*—

1. Reports of Committees and Commissions on every aspect and problem of Indian Administration to some of which reference has been made in the book.
2. Imperial Gazetteer of India—3rd & 4th Volumes.
3. Annual Reports on the Moral and Material Progress of India, particularly the series beginning from 1917 under the able authorship of Prof. Rushbrooke Williams. The latest volume should be always at hand. It contains an exhaustive list of official publications
4. Proccedings of Indian and Provincial Legislatures
5. Annual Reports of the various Departments of the Central and Provincial Governments.
6. *Gazettes* of the Central and Provincial Governments.

(J) (i) *Indian Year Book—Times of India Press Bombay.* Annual issue. Excellent up-to-date notes on Indian Administration.

(ii) "India of To-day" series published by the Oxford University Press. Contains useful brochures on Defence, Cooperation, Irrigation, Railways, Currency and Exchange, etc.

INDEX

Note—The figures refer to pages; full explanation is not given in the case of passing references.

D

SELECT OPINIONS AND REVIEWS

ON THE FIRST EDITION OF

"The Growth of Indian Constitution and Administration."

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(1) "It is an excellent piece of work, designed in the first place for university students, but no less serviceable for a much wider public. The author gives a clear account of the old bureaucratic government, the public services, the departmental system, the provincial administration, the working of the complicated land-revenue system and so forth. Mr. Sapre is a master of his intricate subject and of the English language. He writes with a clarity and conciseness that are worthy of high praise. The present volume is an admirable example of typographic work.

London, Oct. 11, 1924. *The New Statesman.*

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London, 18-9-1924. *Times Literary Supplement.*

(4) "It seems highly useful, and likely to be of great utility as a work of reference."

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Madras, July, 1924. *"The Indian Review."*

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Calcutta, April, 1925. *"Hindustan Review."*

(14) "As a book of reference it will be found highly useful; and students of Political Science may profitably use it as a text-book.

Calcutta, May, 1925. *"Modern Review"*

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Bombay, 8-10-24. *"Times of India."*

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(21) "Within the short compass of 500 pages the author has succeded in presenting history, constitution and administration. The book would prove very useful as a guide to students attempting a study of the Indian Constitution."

Calcutta, 4-12-1924. *"The Englishman,"*

(22) Professor Sapre has done a difficult task well, and has produced an eminently useful volume. He is sure to command a wider public than the occupants of the class room.

Bombay, 15-9-24. *"The Bombay Chronicle."*

(23) "The Author has taken great pains in the preparation of this Manual, which is about most compact and comprehensive a treatment of a great subject as could be desired."

Allahabad, 1-2-1925. *"The Pioneer."*

(24) Mr. Sapre has chosen the political development of India for his subject, and has given a clear account from the E. I. Company days right up to the present. The result is a useful hand-book, intended primarily for College students. A tremendous amount of information is packed into small compass and a good index enables the reader to find his way about."

Calcutta, 26-4-1925. *"The Statesman."*

N.B.—The book is being used in the Colleges of the Bombay University, has been recommended for libraries of Schools and Colleges by the Departments of Public Instruction of Bombay, Madras, Bengal and Mysore, and prescribed as a text-book in the University of Delhi.